

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

UNITED STATES OF AMERICA

VS. CRIMINAL NO. 3:17-cr-00140-DPJ-FKB-2

HEATHER ELIZABETH WRIGHT-BEARD

TRIAL TRANSCRIPT
VOLUME 1

BEFORE THE HONORABLE DANIEL P. JORDAN III
CHIEF UNITED STATES DISTRICT JUDGE
AND A JURY
JUNE 13, 2018
JACKSON, MISSISSIPPI

APPEARANCES:

FOR THE GOVERNMENT: MS. KEESHA D. MIDDLETON
MS. JENNIFER CASE

FOR THE DEFENDANT: MR. ROBERT THOMAS RICH

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1 (Voir Dire, Jury Selection, and Preliminary Instructions
2 Not Transcribed)

3 (Jury In)

4 THE COURT: So the trial will now begin. First the
5 government will make an opening statement which is simply an
6 outline to help you understand the evidence as it comes in.
7 Next the defendants' attorney may, but is not required to, make
8 an opening statement. Open statements are neither evidence nor
9 arguments.

10 The government will then present its witnesses, and
11 counsel for the defendant may cross-examine them. Following
12 the government's case, the defendant may, if she wishes,
13 present witnesses whom the government may cross-examine. After
14 all the evidence is in, I will instruct you on the law, and the
15 attorneys will present their closing arguments to summarize and
16 interpret the evidence for you. After that, you will retire to
17 deliberate on your verdict.

18 All right. Ms. Middleton, how much time do you
19 need -- or Ms. Case?

20 MS. CASE: Not more than ten minutes, Your Honor.

21 THE COURT: Would you like a warning?

22 MS. CASE: Not necessary. Thank you.

23 THE COURT: All right. Thank you.

24 MS. CASE: May it please the court.

25 THE COURT: Yes, ma'am.

1 OPENING STATEMENT FOR THE GOVERNMENT

2 MS. CASE: Ladies and gentlemen, a few years ago the
3 defendant, Heather Wright-Beard, met the man who would become
4 her husband, David Beard. Even before they married, Mr. and
5 Ms. Beard began their live at one. They lived together near
6 Vicksburg, Mississippi, while they renovated a modest home in
7 west Jackson.

8 In March 2016 they moved into that home. A few months
9 later, Mr. Beard pled guilty and admitted his role in a home
10 invasion. He was out of prison while he waited to be
11 sentenced. Mr. Beard expected he would be in prison for some
12 time so he and the defendant, his fiance, made plans to take
13 care of Ms. Beard while Mr. Beard was in prison.

14 One way that Mr. Beard sought to help his wife was by
15 marrying her. Yes, he married her for love. But one
16 motivation for the timing of the Beard's marriage was that
17 Mr. Beard would soon be in prison. By not delaying their
18 marriage ceremony, Mr. Beard ensured that his wife would have
19 access to his accounts and assets and that she could visit him
20 in prison.

21 Mr. Beard helped his wife financially in other ways as
22 well. He moved items out of the building that he owned so that
23 his wife could rent it and have a source of income. He even
24 sold his personal property to raise money for her.

25 Mr. Beard also did several things to give his wife

1 security during the time that she would have to live alone in
2 west Jackson without him. He bought her a dog for protection.
3 He installed security cameras in their home, and he bought his
4 wife a gun.

5 That gun is one of two guns that brings us here today.
6 You see, neither Mr. Beard nor Ms. Beard could legally have a
7 gun. They are both convicted felons. One consequence of their
8 felony convictions is they cannot possess a gun. Ms. Beard
9 cannot own a gun. She cannot use a gun. She cannot have easy
10 access to a gun. And your task is to determine whether the
11 defendant possessed a gun.

12 The parties agree there were two guns in the home.
13 The parties also agree that the defendant is a convicted felon.
14 The only dispute is whether Ms. Beard possessed a gun around
15 December 2, 2016. She did.

16 The court will tell you what it means to possess a
17 gun. Possession does not require ownership. It simply
18 requires that a person have control over a gun or that she be
19 able to exert control over it. More than one person can
20 possess the same gun, and consider the meaning of possession as
21 you hear testimony from the witnesses in this trial.

22 The government anticipates that you will hear
23 testimony about two guns. First, you will hear that around the
24 time of their marriage in September of 2016, the defendant and
25 her husband went to purchase a small revolver. They bought the

1 gun for the defendant's protection. The defendant held the
2 gun, confirmed that she liked it, and maintained control over
3 it. She often kept the gun by her bed, and she kept ammunition
4 for that gun in her closet.

5 You will also hear that the defendant knew that a
6 rifle was in her home. The rifle was in an unlocked gun safe
7 in an unlocked closet in the middle of the home. The rifle sat
8 alongside the defendant's pellet gun. The ammunition in the
9 defendant's closet also fit the rifle.

10 The defendant knew that these guns were in her home.
11 She had easy access to both of them. We have the burden of
12 proving to you beyond a reasonable doubt that the defendant
13 knowingly possessed at least one of these two guns. We embrace
14 our burden and our opportunity to present this case to you.

15 And at the end of this trial, Ms. Middleton and I will
16 ask you to return the verdict that the facts and the law
17 demand, to find the defendant, Heather Wright-Beard, guilty.
18 Thank you.

19 THE COURT: All right. Thank you. Mr. Rich, do you
20 wish to make an opening statement?

21 MR. RICH: I do, Your Honor.

22 OPENING STATEMENT FOR THE DEFENDANT

23 MR. RICH: Ms. Case is correct. The only issue in
24 this case is knowing possession. Both sides stipulate that
25 Ms. Beard is a convicted felon. She has been convicted of a

1 felony. Both sides agree that there were two guns found in the
2 home. But what we disagree about is knowing possession,
3 knowing possession.

4 I believe the evidence will show that when law
5 enforcement came into the home a year and a half ago,
6 December 2, 2016, that the Winchester rifle that you heard
7 mention of was concealed in a gun cabinet. I believe that
8 you'll also hear testimony that a Taurus pistol was found, was
9 concealed in a bag behind the mirror.

10 I believe you'll hear testimony that no one from law
11 enforcement saw Mr. Beard possess a gun. The only testimony
12 that I believe you'll hear is from her husband, who has pled
13 guilty in this case, that Ms. Beard ever possessed either gun.
14 I believe that's the only testimony that you will ever hear of
15 that.

16 So at the end of the day, that and a lot more evidence
17 that you're going to hear, I believe when you have the decision
18 of knowing possession, we're going to ask you to find the
19 defendant not guilty on this charge.

20 THE COURT: All right. Thank you. Does either party
21 wish to invoke the rule?

22 MS. MIDDLETON: Yes, Your Honor. The government would
23 like to invoke.

24 THE COURT: All right. I don't know any of the
25 witnesses. So if there's -- I'll ask the parties to monitor

1 that. Are there any in the courtroom? There's no one in the
2 courtroom for the government.

3 MR. RICH: Not for the defense, Your Honor.

4 THE COURT: All right. Thank you. The government
5 call its first witness.

6 MS. MIDDLETON: Your Honor, if I may, before I call my
7 first witness, the government and the defense have a couple of
8 stipulations that we would like to read into the record.

9 THE COURT: Okay. Give me one second.

10 (Short Pause)

11 THE COURT: All right. Ladies and gentlemen, as you
12 just heard, the parties have entered into an agreement or
13 stipulation as to certain facts. That means that both sides
14 agree as to what those facts are. You may treat those facts as
15 having been proven in this case.

16 All right. Ms. Middleton.

17 MS. MIDDLETON: Your Honor, the first stipulation is
18 as follows:

19 The government and the defendant stipulate and agree
20 that the Taurus brand model 94 Ultra-Lite 9 bearing serial
21 number RG69194, .22 caliber revolver found at the residence of
22 the defendant, Heather Elizabeth Wright-Beard, on December 2,
23 2016, is a firearm and was manufactured in Brazil. Prior to
24 December 2nd of 2016, the firearm traveled in and affected
25 interstate and foreign commerce.

1 The government and the defendant stipulate and agree
2 that the Winchester brand model 67A .22 caliber rifle bearing
3 no serial number found at the residence of the defendant,
4 Heather Elizabeth Wright-Beard, on December 2, 2016, is a
5 firearm and was manufactured in Connecticut prior to
6 December 2, 2016. The firearm traveled in and affected
7 interstate commerce.

8 This stipulation has been signed by the government,
9 Keesha Middleton, and for the defendant, Tom Rich. It is
10 denoted by Government's Exhibit G-2.

11 We have a second stipulation.

12 THE COURT: Okay.

13 MS. MIDDLETON: The government and the defendant
14 stipulate and agree that the defendant, Heather Elizabeth
15 Wright-Beard, is a convicted felon. Heather Elizabeth
16 Wright-Beard had previously been convicted of a crime
17 punishable by imprisonment for a term in excess of one year,
18 that is, a felony, at the time of the crime alleged in the
19 indictment.

20 It has been signed by the government and by the
21 defendant and is denoted by Government's Exhibit G-1.

22 THE COURT: Okay. I'll, I guess, mark those for
23 identification purposes as G-1 and G-2. If you can approach.

24 (Exhibit G-1 for ID marked)

25 (Exhibit G-2 for ID marked)

1 THE COURT: Yes.

2 MS. MIDDLETON: Your Honor, the government calls
3 Special Agent Dale Stallings.

4 (Witness Sworn)

5 MS. MIDDLETON: May I proceed?

6 THE COURT: Yes.

7 DALE STALLINGS,

8 having first been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. MIDDLETON:

11 Q Good afternoon.

12 A Good afternoon.

13 Q Would you please state and spell your name for the record.

14 A Dale Stallings D-A-L-E S-T-A-L-L-I-N-G-S.

15 Q Mr. Stallings, where are you employed?

16 A I work for the Bureau of Alcohol, Tobacco, Firearms, and
17 Explosives.

18 Q Is that commonly known as ATF?

19 A It is.

20 Q What's your position with ATF?

21 A I'm a special agent.

22 Q How long have you worked as a special agent with ATF?

23 A For approximately ten and a half years.

24 Q Agent Stallings, were you working as a special agent on
25 December 2 of 2016?

1 A I was.

2 Q And did you participate in the execution of an arrest
3 warrant and search warrant on that particular date?

4 A I did.

5 Q Do you recall the location?

6 A Yes. It was at 4645 Van Winkle Park Drive in Jackson,
7 Mississippi.

8 THE COURT: Let me -- can everybody on the jury hear
9 him okay?

10 BY MS. MIDDLETON:

11 Q I believe the last question was at what location, and you
12 said 4645 Van Winkle Park Drive?

13 A That's correct.

14 Q Is that location within the Southern District of
15 Mississippi?

16 A It is.

17 Q Agent, I want to turn your attention to the execution of
18 the arrest warrant at 4645. What was your role?

19 A My role during the execution of the warrant was to provide
20 perimeter security around the building.

21 Q For those of us who are not law enforcement and not
22 familiar with perimeter security, what does that entail?

23 A Generally you have a couple of agents or officers who take
24 a position on the corners of the buildings to where they have a
25 view of any exterior windows or doors in order to provide

1 safety in case anything should happen from those locations.

2 Q Okay. While serving as perimeter, who executed the arrest
3 warrant?

4 A It was the United States Marshal's task force.

5 Q Do you know who they were arresting?

6 A They had a warrant for David Beard.

7 Q At the time that arrest warrant was executed, do you know
8 how many people were in the residence at that time?

9 A There were two occupants in the residence.

10 Q Who were they?

11 A It was David Beard and Heather Wright-Beard.

12 Q Do you see Heather Wright-Beard in the courtroom today?

13 A I do.

14 Q Please point her out and identify what she's wearing.

15 A She's sitting at the defense table wearing a black jacket
16 and a white blouse.

17 MS. MIDDLETON: Let the record reflect that the
18 witness has identified the defendant, Heather Elizabeth
19 Wright-Beard.

20 THE COURT: It will.

21 BY MS. MIDDLETON:

22 Q When the marshals executed the arrest warrant, what, if
23 anything, was found?

24 A During the execution of the arrest warrant, the marshals
25 observed a shotgun shell in plain view.

1 Q When you say "in plain view," do you know where exactly it
2 was?

3 A It was in a closet sitting on top of a gun safe.

4 Q What's significant about the finding of a shotgun shell?

5 A Prior to the execution of the warrant, the marshals task
6 force had information that David Beard was a convicted felon.

7 Q What does that mean in relation to the shotgun shell?

8 A That means he's prohibited from possessing any firearms or
9 ammunition.

10 Q After the finding of the shotgun shell, what happened?

11 A After the shotgun shell was discovered, ATF sought a search
12 warrant.

13 Q Did they get a search warrant?

14 A They did.

15 Q Once a search warrant was received or once ATF got the
16 search warrant, does ATF do anything in particular before
17 actually going in and physically searching the residence?

18 A We will document the scene. We will do a -- we'll take
19 photographs of the exterior of the building, do a video
20 walk-through prior to the search to show the condition of the
21 residence, and we will do a rough sketch of the floor plan of
22 the residence.

23 Q Let's talk a little bit about the video. Did you say why
24 you video the residence?

25 A Yes, just to show the condition of the residence prior to

1 the search.

2 Q Who took that video?

3 A I did.

4 Q Did you download that video on any type of media?

5 A I downloaded it to a DVD.

6 MS. MIDDLETON: May I approach the witness?

7 THE COURT: Yes.

8 BY MS. MIDDLETON:

9 Q I'm handing you what's previously been marked as
10 Government's Exhibit G-16(a). Do you recognize it?

11 A I do.

12 Q What is it?

13 A It's a DVD containing the recording of the pre-search
14 walk-through.

15 Q You have reviewed it before?

16 A I have.

17 Q How do you know?

18 A I initialed it after reviewing it.

19 Q Is this copy -- a true and correct copy of the video that
20 you took of 4645 Van Winkle Park Drive on February 2, 2016.

21 A It is.

22 MS. MIDDLETON: At this time, we would like to offer
23 into evidence Government's Exhibit G-16(a).

24 THE COURT: Any objection?

25 MR. RICH: No objection.

1 THE COURT: G-16(a) is admitted.

2 (Exhibit G-16(a) marked)

3 MS. MIDDLETON: May I retrieve the recording and
4 publish to the jury?

5 THE COURT: Yes.

6 BY MS. MIDDLETON:

7 Q While that's playing, can you please tell us what we're
8 seeing?

9 (Clip Played)

10 A That's the front of the residence, the front door.

11 Q Okay. What's this one?

12 A As you walk in, that's a kitchen area.

13 Q There's a room to the left here?

14 A Yes, living room area.

15 Q Okay. Now -- and the living area is right adjacent to the
16 kitchen. What's this room you're walking into now?

17 A Well, the one showing right now is a closet next to the
18 living room area.

19 Q Okay.

20 A To the left of that door is the entrance into the bedroom.

21 Q This bedroom?

22 A Yes.

23 Q How many bedrooms are in the house?

24 A There's one.

25 Q And this is the condition the residence was in when you got

1 there, before the warrant was executed. Correct?

2 A Prior to the search warrant being executed.

3 Q What's this area?

4 A A small hallway. There's a closet that is showing right
5 now.

6 Q What's significant about this closet in particular?

7 A That's the closet where the gun safe was located where the
8 shotgun shell was observed.

9 Q What about this area?

10 A That's a room. It had a washer and dryer and I believe it
11 had a freezer in it as well.

12 Q The video is kind of dark. Were the lights off in some
13 areas?

14 A Some of the lights were off. That's a bathroom area.

15 Q The size of the house, would you say large, small, or how
16 would you describe it?

17 A The front of the residence I would describe it as being
18 small. In the back there was a large garage which is what's
19 being shown on the video right now.

20 Q This is the garage?

21 A Yes.

22 Q And that door that was showing there, is that the only way
23 to get into the garage or did you enter from the house? Was it
24 two ways to get into the garage?

25 A There's the interior door coming from the house, which is

1 the one I walked through in the video to reach this section,
2 and then there was the -- a garage door -- I don't believe we
3 ever opened that door or not.

4 Q So pretty much of the rooms in the house, you have a living
5 room, bathroom, kitchen, bedroom, garage, gun closet. There
6 weren't like two bathrooms, two bedrooms. It was a pretty
7 small space.

8 A That's correct.

9 Q Other than the video, you also mentioned that a sketch or
10 drawing of the residence was done.

11 A Yes.

12 Q Did you prepare it?

13 A I did not.

14 Q Do you know who prepared it?

15 A It was ATF Special Agent Edwin Reliford.

16 Q Did you review it for its accuracy?

17 A I did.

18 MS. MIDDLETON: May I approach the witness?

19 THE COURT: Yes.

20 BY MS. MIDDLETON:

21 Q I hand you what's been previously marked as Government's
22 Exhibit G-18(a) and G-18(b). Do you recognize it?

23 A I do.

24 Q What is it?

25 A It's the sketch of the floor plan of the residence as well

1 as the second page is a legend where we designated each room
2 with a number.

3 Q And do these exhibits fairly and accurately reflect the
4 layout of 4645 Van Winkle Park Drive as it existed on
5 December 7, 2016.

6 A It does.

7 MS. MIDDLETON: At this time, we would like to offer
8 G-18(a) and G-18(b) into evidence.

9 THE COURT: Any objection?

10 MR. RICH: No objection.

11 THE COURT: G-18(a) and(b) are both admitted.

12 (Exhibit G-18(a) and G-18(b) marked)

13 MS. MIDDLETON: May I publish to the jury?

14 THE COURT: You may.

15 BY MS. MIDDLETON:

16 Q Okay. Agent Stallings, is this the sketch that you were
17 talking about in regards to the residence?

18 A It is.

19 Q And if you would, utilizing the screen, I want you to just
20 make a mark, whether it be an X, denoting and explaining each
21 one of the rooms that are shown on this drawing.

22 A Right here is the kitchen area.

23 Q Uh-huh.

24 A This is the living room. This is the --

25 Q The master bedroom?

1 A Yes. The master bedroom. It has the number 1 written in
2 it right next to the bed.

3 Q And how many closets are in the residence?

4 A There's a closet in the living room, and there's a closet
5 in the hallway.

6 Q Let me help you here. This -- is this the area in which --
7 the first closet you're talking about with the gun safe?

8 A Yes, it is.

9 Q Okay. And there's a closet here?

10 A Correct.

11 Q And that's a closet in the living room?

12 A It is.

13 Q Okay. And this is the only bedroom in the house. Correct?

14 A That's correct.

15 Q Okay. Let's talk -- go back to the execution of the search
16 warrant. Once the video was taken, once you took the video,
17 what other role did you undertake?

18 A My role after taking the video was to photograph any items
19 that were found that may have any evidentiary value.

20 Q Did you participate in the search or just photograph?

21 A No, I was photographing -- I was more or less floating from
22 room to room. Whenever someone would find something, they
23 would request me to come photograph it.

24 Q That was the procedure that they would let you know when
25 something was found and you would photograph?

1 A That's correct.

2 Q What, if anything, was found on that day at 4645?

3 A There were firearms, ammunition, and drug paraphernalia
4 found.

5 MS. MIDDLETON: Your Honor, may I ask the witness to
6 step down and examine Government's Exhibit G-3 through 15?

7 THE COURT: Yes.

8 BY MS. MIDDLETON:

9 Q Agent, I want to you examine all of these items and let me
10 know when you're done.

11 A (Witness Examines Items) I'm finished.

12 Q Do you recognize those items?

13 A I do.

14 Q What are they?

15 A That is all the evidence that was taken from the residence
16 during the search warrant.

17 Q You took these items into evidence?

18 A That's correct.

19 Q And some of the items have seals on them in particular.

20 Were these items sealed when they were taken into evidence?

21 A Once we retrieved the item from the residence and took them
22 back to our office, they were then packaged and sealed.

23 Q Have they been open at any point in time prior to trial?

24 A Yes, they have.

25 Q When?

1 A I wasn't present when it occurred, but I was informed that
2 some of the items were opened in order for them to be examined
3 by the defense.

4 Q Other than review of the items by defense counsel, have
5 there been any other changes?

6 A The only other knowledge I have is that one of the firearms
7 was test fired.

8 Q Other than what you just stated, are these items in the
9 same or substantially the same condition as they were when they
10 were taken from 4645 Van Winkle Park Drive?

11 A They are.

12 MS. MIDDLETON: Your Honor, at this time we would like
13 to offer G-3 through 15 into evidence.

14 THE COURT: Any objection?

15 MR. RICH: No objection.

16 THE COURT: All right.

17 (Exhibit G-3 through G-15 marked)

18 MS. MIDDLETON: Your Honor, at this time I would ask
19 if Agent Stallings can open some of the items and publish to
20 the jury.

21 THE COURT: You may. Somebody has walked in. I want
22 to just make sure it was not a witness in back to the left
23 here.

24 MR. RICH: No.

25 MS. MIDDLETON: No.

1 BY MS. MIDDLETON:

2 Q All right. Let's talk about first G-3. Agent, what is
3 G-3?

4 A G-3 is a Winchester model 67A .22 caliber rifle.

5 Q And where was this rifle found?

6 A This rifle was found in the gun safe in the closet in the
7 hallway.

8 Q And in particular, the gun safe that was found in -- do you
9 know whether or not that gun safe was open?

10 A It was.

11 Q Was this rifle test fired?

12 A It was.

13 Q Why?

14 A We had received a statement from David Beard that he
15 believed that it wasn't a functioning firearm and that he
16 referred to it as a training rifle.

17 Q Were you present for the test firing of this rifle?

18 A I was.

19 Q Did it function as a firearm?

20 A It did.

21 Q Let's take a look at G-4. Agent Stallings, what is G-4?

22 A G-4 is a Taurus model 94 Ultra-Lite 9, .22 caliber
23 revolver.

24 Q Do you know where there particular revolver was found?

25 A Yes, it was found in the bedroom.

1 Q Do you know who found it?

2 A It was found by MBN Agent Devin Rice.

3 Q Do you know what type of bullets this particular revolver
4 holds?

5 A .22 caliber bullets.

6 Q Do you know -- Agent, are you aware or do you know if any
7 .22 caliber bullets were found at 4645 Van Winkle Park Drive?

8 A Yes, there were.

9 Q Where?

10 A There were -- it was .22 caliber ammunition. There was one
11 found in the living room area. There was a box containing
12 .22 caliber ammunition in the closet of the bedroom.

13 Q And do you see that particular box anywhere in this
14 evidence here?

15 A I do. And make a correction. I referred to it as a closet
16 in the bedroom. It's a closet in the living room.

17 Q Thank you. Which exhibit has the .22 caliber bullets?

18 A It's Government's Exhibit 5.

19 Q Could you, please -- and inside of G-5, does it contain
20 currently right now .22 caliber bullets?

21 A It does.

22 Q Do you know how many of those bullets are in that box?

23 A 314.

24 Q Let's discuss generally G-6 through G-15, beginning with
25 G-6.

1 A G-6 is one round of .22 caliber ammunition.

2 Q And, Agent, is that .22 caliber ammunition the same as the

3 ammunition that's in G-5?

4 A It is.

5 Q Where was this found?

6 A This was found in room number 2, which I believe is the

7 living room area.

8 Q Let's take a look at G-7. What's contained in G-7?

9 A G-7 is a camouflage box, and this box contains several

10 magazines for different firearms.

11 Q And where was this found?

12 A This was found in the same closet that contained the gun

13 safe.

14 Q The same closet in which the Winchester rifle was found in?

15 A That's correct.

16 Q Right off the kitchen?

17 A Yes.

18 Q G-8. What's contained in G-8?

19 A G-8 contains 24 rounds of multi-caliber assorted

20 ammunition.

21 Q And there's several different caliber ammunition that's

22 included in G-9?

23 A Yes. It was recovered from the same camouflage box.

24 Q So the ammunition found in G-8 was inside the camouflage

25 box that was in the gun safe?

1 A That's correct.

2 Q G-9: What is G-9?

3 A G-9 is one round of .22 caliber ammunition which was found

4 in room number 3, which is the bedroom.

5 Q Okay. Do you know on which side of the room it was found?

6 A If you're standing at the foot of the bed in the bedroom

7 facing the bed, it would be on the left-hand side.

8 Q Thank you. Let's take a look at G-10. What is G-10?

9 A G-10 is six rounds of a sorted multi-caliber ammunition.

10 Q Where was it found?

11 A It was found in room number 5.

12 Q Which is?

13 A Which I believe refers to the closet -- the closet in the

14 hallway where the gun safe was located.

15 Q G-11?

16 A G-11 is a bag that contains 30 rounds of assorted

17 multi-caliber ammunition which was found in room 8, which is

18 the large garage at the back of the residence.

19 Q G-12?

20 A G-12 is 79 rounds of assorted multi-caliber ammunition

21 which was found in room 8. That's the garage at the back of

22 the residence.

23 Q Will you open it.

24 A (Witness Complied with Request.)

25 Q Now let's take a look at G- -- G-13.

1 A G-13 is a black bag that contains 52 rounds of assorted
2 ammunition, and this item was found in room 8, the garage.

3 Q Let's take a look at G-14 and G-15.

4 A G-14 is an ammunition can which contains 483 rounds of
5 assorted multi-caliber ammunition.

6 Q Finally let's take a look at G-15. You're going to have to
7 pick that one up.

8 A G-15 is a black plastic toolbox that contains 687 rounds of
9 multi-caliber ammunition.

10 Q Where was that found?

11 A This was found in room 8 the garage.

12 Q In total, approximately how much ammunition was found at
13 the residence?

14 A Approximately 1700 rounds.

15 Q And this evidence was found where? Just -- was it just
16 contained to one particular room or --

17 A No, it was found throughout the residence.

18 Q Of the evidence that was collected, was there any type of
19 list or anything to keep track of the evidence?

20 A Yes. We kept a property log. As we found items, we would
21 document what was found.

22 Q Okay.

23 MS. MIDDLETON: May I approach?

24 THE COURT: Yes.

25 BY MS. MIDDLETON:

1 Q I hand you what has previously been marked as G-19. Do you
2 recognize it?

3 A I do.

4 Q And what is it?

5 A This is the property inventory list that was maintained
6 during the search.

7 Q Did you prepare it?

8 A I did not.

9 Q Have you -- who prepared it?

10 A This list I believe was prepared by Special Agent Edwin
11 Reliford.

12 Q You have reviewed it for its accuracy?

13 A I have.

14 Q And is G-19 a true and accurate copy of the property
15 inventory list which reflects the evidence that was seized at
16 4645 Van Winkle Park Drive?

17 A It is.

18 MS. MIDDLETON: At this time, we would like to offer
19 Government's Exhibit G-19, which is two pages, into evidence.

20 THE COURT: Any objection?

21 MR. RICH: No objection.

22 THE COURT: All right. G-19 is admitted.

23 (Exhibit G-19 marked)

24 MS. MIDDLETON: May I publish?

25 THE COURT: Yes.

1 BY MS. MIDDLETON:

2 Q This is page 1 of G-19. What's the date on this document?

3 A The date is December 2, 2016.

4 Q Is that the same day on which the search warrant was
5 executed?

6 A It is.

7 Q Does this document, including the page that's showing on
8 the screen and including page 2, list everything that you
9 seized from 4645?

10 A It does.

11 Q Now, you mentioned earlier that you were the photographer
12 at the residence.

13 A That's correct.

14 MS. MIDDLETON: May I approach?

15 THE COURT: Yes.

16 BY MS. MIDDLETON:

17 Q Agent I've just handed you G-27(a) through G-27(b), G-28(a)
18 through 28(c), G-29(a) through 29(r), G-30(a) and 30(b),
19 G-31(a) and G-31(b), G-32(a) through G-32(c), G-33(a) through
20 G-33(j), G-34(a) through G-34(j), G-35(a) through G-35(d),
21 G-36(a), G-37(a) through G-37(g), G-38(a) through G-38(j) and
22 finally G-39(a) through G-39(c).

23 Please take a look at all those photos and let me know when
24 you're done examining them.

25 A (Witness Complied with Request) I'm finished reviewing

1 them.

2 Q Do you recognize those photos?

3 A I do.

4 Q What are they photos of?

5 A These are photographs from when we executed the search
6 warrant. They are photographs of the residents that were
7 present as well as items that were seized, and it's also
8 photographs of all the evidence collectively photographed.

9 Q Do these photographs fairly and accurately depict the
10 residents that were present at the scene as well as the scene
11 and the evidence collected at 4645 Van Winkle Park Drive?

12 A It does.

13 MS. MIDDLETON: Your Honor, at this time we offer
14 Government's Exhibit G-27(a) through G-27(b), G-28(a) through
15 G-28(c), G-29(a) through G-29(r), G-30(a) through G-30(b),
16 G-31(a) through G-30(b) (sic), G-32(a) through G-32(c), G-33(a)
17 through G-33(j), G-34(a) through G-34(j), G-35(a) through
18 G-35(d), G-36(a), G-37(a) through G-37(g), G-38(a) through
19 G-38(j), and G-39(a) through G-39(c) into evidence.

20 THE COURT: Any objection?

21 MR. RICH: No objection.

22 THE COURT: All right. Those exhibits are admitted
23 into evidence.

24 (Exhibit G-27(a) through G-27(b) marked)

25 (Exhibit G-28(a) through G-28(c) marked)

1 (Exhibit G-29(a) through G-29(r) marked)
2 (Exhibit G-30(a) through G-30(b) marked)
3 (Exhibit G-31(a) through G-31(b) marked)
4 (Exhibit G-32(a) through G-32(c) marked)
5 (Exhibit G-33(a) through G-33(j) marked)
6 (Exhibit G-34(a) through G-34(j) marked)
7 (Exhibit G-35(a) through G-35(d) marked)
8 (Exhibit G-36(a) marked)
9 (Exhibit G-37(a) through G-37(g) marked)
10 (Exhibit G-38(a) through G-38(j) marked)
11 (Exhibit G-39(a) through G-39(c) marked)

12 MS. MIDDLETON: Your Honor, may we publish?

13 THE COURT: You may.

14 BY MS. MIDDLETON:

15 Q I want to turn your attention to G-30(a). What is this a
16 photo of?

17 A That's a photograph of a piece of furniture --

18 Q Uh-huh.

19 A -- in the living room area, and there is a -- one round of
20 ammunition on top of the furniture.

21 Q Would you please indicate utilizing your screen where the
22 ammunition is located?

23 A (Witness complied with request).

24 Q And you said that is a round of what, .22?

25 A Yes.

1 Q What is G-30(b)?
2 A That's a close-up photo of the same round of ammunition.
3 Q Okay. Let me turn your attention to G-32(a). What are we
4 seeing in this photo?
5 A That is the closet in the living room area.
6 Q Do you know what items of -- who those clothes are
7 attributable to?
8 A The closet contained clothing for women as well as shoes.
9 Q What are we seeing in 32(b)?
10 A On the middle shelf is the black box containing the .22
11 caliber ammunition.
12 Q Is this an interior shot of the same closet in G-31 -- that
13 was G-32(a), the previous photo?
14 A It is.
15 Q And these are the shoes that you're referring to?
16 A That's correct.
17 Q Okay. And that photograph, the black box, is that the same
18 black box that's G-5?
19 A It is.
20 Q With the .22 rounds of ammunition?
21 A Yes.
22 Q What are we seeing in G-32(c)?
23 A That's a photograph of the contents of the box. That's .22
24 caliber ammunition and a couple of writing pens.
25 Q Let's take a look at G-34. What are we seeing in that

1 photograph of G-34(a)?

2 A This is a photograph that was taken in the bedroom to
3 the -- if you're standing at the foot of the bed facing the bed
4 to the left against the wall, against the wall here is a
5 mirror, and down on the floor here is a black bag where the .22
6 caliber revolver was located.

7 Q And is that the same .22 caliber revolver that is G-4?

8 A Yes.

9 Q Is this a photo of G-4?

10 A It is.

11 Q That's another shot of G-4?

12 A It is.

13 Q What are we seeing in G-34(e)?

14 A This is a photograph on top of the bed of a cell phone.

15 Q Where was this cell phone?

16 A Cell phone was on the left side of the bed close to where
17 the black bag containing the revolver was found.

18 Q On the floor, on the shelf, or where was it?

19 A On the floor.

20 Q When looking at G-29(c), we just discussed the cell phone.

21 Where in this photo is the cell phone?

22 A It is on the floor right here.

23 Q And earlier you mentioned a mirror.

24 A Yes.

25 Q Where is it in this photo?

1 A The mirror is leaned against the wall right here.

2 Q Okay. So the area that we're looking at on the left of the
3 screen, is this -- does this photo represent a close-up shot of
4 that area in that corner?

5 A Yes, it does.

6 Q More particularly, this photo -- you indicated that a black
7 bag was found over in that corner.

8 A That's correct.

9 Q There are also some -- appears to be medicine bottles on
10 the floor there.

11 A Correct.

12 Q What is G-34(i)?

13 A It's close-up of medication bottles that were on the floor
14 next to the mirror.

15 Q What are we seeing here in G-34(a)?

16 A That's a close-up of a few of the medicine bottles.

17 Q What's the name on the medicine bottles?

18 A Heather Wright.

19 Q These are the same medicine bottles that were found on the
20 floor immediately near the black bag?

21 A That's correct.

22 Q What are we seeing in G-37(a)?

23 A That's a photograph of the interior of the gun safe, and
24 that is the Winchester rifle.

25 Q That's in the brown?

1 A Yes.

2 Q Thank you. What were these two other items that are in
3 there?

4 A Those were air rifles.

5 Q And is it illegal to possess an air rifle?

6 A No, it's not. They are not considered firearms.

7 Q What are we seeing in G-37(c)?

8 A That's a photograph of the interior of the camouflage box
9 with the magazines.

10 Q The same camouflage box that's on the table with the
11 magazines in it?

12 A That's correct.

13 Q That another photo of the camera box?

14 A It is.

15 Q What is this a photo of?

16 A That's a photograph of the top of the gun safe. There are
17 some shotgun shells on top of it.

18 Q It's the same gun safe in which the Winchester was found
19 and the magazines.

20 A That's correct.

21 Q That's right off the kitchen.

22 A Yes.

23 Q Out of all of those photos that you took and that were
24 collected, did you keep -- or how did you keep track of all of
25 these photos?

1 A We used a photo log. Anytime we took a photo, we would
2 write it down on the log.

3 Q Did you prepare it?

4 A I prepared part of it.

5 Q What part did you not prepare?

6 A The third and fourth page I didn't prepare and I believe
7 the first three lines of the first page.

8 Q You have reviewed it to make sure that these photographs --
9 that everything that's logged on this log is accurate?

10 A I have.

11 MS. MIDDLETON: May I approach?

12 THE COURT: Yes.

13 BY MS. MIDDLETON:

14 Q I hand you what's been marked as G-20. Do you recognize
15 it?

16 A I do.

17 Q What is it?

18 A It's the photo log.

19 Q And is this a true and correct copy of the photo log that
20 was utilized to document the photos taken of the evidence and
21 the scene 4645 Van Winkle Park Drive?

22 A It is.

23 MS. MIDDLETON: At this time, we would like to offer
24 into evidence Government's Exhibit G-20, which is four pages.

25 THE COURT: Any objection?

1 MR. RICH: No objection.

2 THE COURT: G-20 is admitted.

3 (Exhibit G-20 marked)

4 MS. MIDDLETON: May I publish to the jury?

5 THE COURT: Yes.

6 BY MS. MIDDLETON:

7 Q Agent, I turn your attention to page 1 of the photo log.

8 In particular, I want to turn your attention to number 19.

9 What does number 19 -- photo number 19 reference?

10 A It references a photograph of the cell phone that was
11 discovered next to the bed.

12 Q It's an LG cell phone?

13 A Yes.

14 Q What are those numbers? I assume those are numbers.

15 A Yes. That is the pin code to unlock the phone.

16 Q How did you get the pin code -- how was the pin code --

17 A The pin code was provided by Heather Beard.

18 Q And that's the same phone that was in the photograph that
19 you circled on the floor on G-29(m) ?

20 A Yes.

21 Q According to this photo log, where was the Taurus revolver,
22 the G-4 -- Exhibit G-4 found?

23 A Room number 3, which was the bedroom.

24 Q When you say "in the bedroom," you're referring to the same
25 photo that you discussed that you circled by the black

1 nightstand?

2 A Yes. The photograph with the black bag and the mirror.

3 Q Of the rooms in the house, where were firearms and
4 ammunition found in all -- when you're talking about the rooms
5 in the house?

6 A The firearms -- one was found in the bedroom. That would
7 be the Taurus revolver. The Winchester rifle was found in the
8 gun safe in the closet off the hallway. There was ammunition
9 found in the living room, the bedroom, the closet and the --
10 where the gun safe was as well as the garage out the back of
11 the house.

12 Q So in total in the eight rooms in the house, we're talking
13 about ammunition was in the living room, the bedroom, the
14 garage, the gun closet, which is right off the kitchen, and a
15 closed in the living room.

16 A Yes.

17 Q Other than the photographer, did you undertake any other
18 role in this investigation?

19 A Once the evidence was brought back to our office to be
20 properly packaged and labeled, one of my other duties is as the
21 evidence vault custodian. Once the evidence was prepared for
22 the vault, I checked it into the vault.

23 Q You checked everything in once it was --

24 A Yes.

25 MS. MIDDLETON: Court's indulgence.

1 (Short Pause)

2 MS. MIDDLETON: Your Honor, as I understand it, when I
3 was admitting photographs, one of the exhibits I misspoke and
4 said G-30 twice, and it should be we were also admitting
5 G-31(a) and(b).

6 THE COURT: All right. So noted. Thank you.

7 MS. MIDDLETON: I tender the witness.

8 THE COURT: All right. Cross.

9 CROSS-EXAMINATION

10 BY MR. RICH:

11 Q Agent Stallings, you mentioned earlier that you were
12 present when the arrest warrant was executed for Mr. Beard.

13 A I was.

14 Q What was the purpose for that arrest warrant?

15 A To my knowledge, I knew that the U.S. Marshal task force
16 had an active arrest warrant for David Beard, and they
17 requested that we be there in support.

18 Q When you were present at the home that day, did you ever
19 see Ms. Beard possess either the Winchester rifle or the Taurus
20 revolver?

21 A No.

22 Q I want to ask you some questions about this evidence, this
23 physical evidence up here. You talked about this rifle. You
24 said that you were present when it was test fired. Can you
25 tell me how was it fired? How was it successfully fired?

1 A It was test fired in our office. This was after the search
2 warrant had concluded. I don't remember the exact date. I
3 believe it's noted on the evidence tag. But the way we'll test
4 fire any firearm is we'll take a round of ammunition that fits
5 the firearm. We'll remove the bullet from it and remove powder
6 from it where all we are left with is a casing and a primer.

7 That casing and primer is then inserted into the firearm.
8 We have a barrel that we use that we stick -- it's a large
9 barrel that we stick the barrel of the firearm into just in
10 case for safety reasons anything should come out of the
11 firearm. Pulled the trigger. The hammer struck the primer,
12 and it set the primer off.

13 Q But you test fired this firearm specifically because you
14 had information that it would not fire.

15 A That's correct.

16 Q And it did fire?

17 A It did fire.

18 Q As to the revolver, you mentioned and we saw in a
19 photograph that it was found in a black bag.

20 A That's correct.

21 Q Now, you've mentioned a lot of things about evidence that
22 you're the custodian for the vault.

23 A Yes.

24 Q That were you tasked with filming the scene that day?

25 A Yes.

1 Q You were tasked with documenting all this evidence?

2 A I didn't keep the property log. I just -- a partially kept

3 the photo log, but my main task was to photograph.

4 Q I saw a photo in there of someone wearing gloves while

5 holding the revolver. Were those your hands?

6 A No, it was not.

7 Q But it's important to keep proper documentation and

8 preservation of physical evidence in a case?

9 A Correct.

10 Q Where is the black bag?

11 A We do not have the black bag.

12 Q I see a Crown Royal bag here where evidence was found,

13 marked as G-11, with assorted ammunition. I see a black camera

14 bag, a green metal box and medical chest and another box --

15 excuse me, two other boxes up here that hold ammunition. Is

16 that correct?

17 A That's correct.

18 Q And you were able to keep the containers that held that

19 evidence. Is that correct?

20 A That's correct.

21 Q Is Ms. Beard charged with possessing any of this

22 ammunition?

23 A To my knowledge, she's just charged with possession of the

24 firearms.

25 Q And so the container that held one of these pieces of

1 evidence at issue, this Taurus pistol, you don't have that bag?

2 A We generally don't keep containers that firearms are kept
3 in. The purpose for keeping the containers that the ammunition
4 was in is because we were dealing with the large amount of
5 ammunition and the vast majority of it is loose. And so these
6 containers provided a means for us to package it and keep it
7 together.

8 Q Let me ask you this about the picture with the rubber
9 gloves. I'm showing you what's been marked as G-34(b), a
10 photograph of this Taurus revolver with someone holding it
11 wearing rubber gloves. Would you agree that one purpose of
12 wearing rubber gloves while coming into contact with a firearm
13 is to preserve any markings that may be on it?

14 A It is.

15 Q Any fingerprints that may be on it?

16 A Yes.

17 Q So this Taurus pistol was found in a black bag.

18 A Correct.

19 Q And any container that that pistol could be in could have
20 affected potential markings on it.

21 A I'm not a forensic scientist. I imagine they could be
22 rubbed off.

23 Q You found a number of magazines during the search.

24 A Yes.

25 Q What is a magazine?

1 A Magazine -- it holds ammunition for the firearm.

2 Q I'm holding what's been marked as G-7, a box of magazines.
3 And I count eight magazines in this box. Can you confirm that
4 for me?

5 A There's eight magazines.

6 Q Were any guns that matched those magazines found in the
7 house?

8 A No, they weren't.

9 Q Agent Stallings, I want to show you what's been marked as
10 G-32(a). It's a photo of the closet that you identified as
11 containing women's clothing. Is this the photo that you
12 identified it as?

13 A It is.

14 Q I'm also going to show you what's been marked as G-32(b),
15 the interior of the closet. When this photograph was taken,
16 clothes were removed prior to taking that photograph. Is that
17 correct?

18 A I don't recall if any had been removed. I didn't remove
19 any clothing, but another agent may have.

20 Q I'm going to show you again photograph G-32(a). Do you see
21 clothing on the right side of that closet on the upper half of
22 the closet?

23 A I do.

24 Q Do you see clothing on the left half of the closet on the
25 upper half of the closet?

1 A There appears to be clothing on the left-hand side.

2 Q In G-32(b), do you see clothing on the left side of the
3 closet?

4 A I do.

5 Q And there's no clothing on the right side of the closet?

6 A No.

7 THE COURT: Mr. Rich, we've been going about an hour
8 and a half. If you're close, then we'll finish it. If not,
9 would this be an appropriate time for a break?

10 MR. RICH: I'm close, Your Honor. I'm close. I only
11 foresee a few more minutes.

12 BY MR. RICH:

13 Q Agent Stallings, I'm showing you what's been marked as
14 G-34(a), the picture of the location of the black bag. Is that
15 correct?

16 A That's correct.

17 Q Looks like the mirror has been broken in this picture. Was
18 the mirror broken at any point in time?

19 A Yes. During the search -- I wasn't present when it
20 happened, but the mirror was broken.

21 Q But prior to the black bag being located, I'm showing you
22 G-29(m), the photograph of the bedroom with the mirror intact.
23 Is that how the bedroom looked prior to the bag being found?

24 A That's not a photograph that I took, but it does appear to
25 be the condition of the room prior.

1 Q And the black bag was concealed behind the mirror?

2 A Yes.

3 Q There's a lot of ammunition on this table, Agent Stallings.

4 You found .22 ammunition. Is that correct?

5 A Yes, .22 caliber ammunition was recovered.

6 Q You found 12 gauge shotgun ammunition.

7 A That's correct.

8 Q Twenty gauge shotgun ammunition.

9 A I believe. I'd have to look at the particular calibers to
10 confirm.

11 Q You found 223 ammunition, for a 223 rifle.

12 A Again I'd have to take a look.

13 Q I'm handing you a box. It's marked 9 millimeter. Do you
14 agree that's 9 millimeter ammunition?

15 A Yes, it's 9 millimeter ammunition.

16 Q I'm handing you a box that's been marked as 243 ammunition.
17 Do you agree that that's 243 ammunition?

18 A It is.

19 Q I'm handing you a box that's been marked as 270 ammunition.
20 Do you agree that that's 270 ammunition?

21 A It is.

22 Q And you mentioned earlier that you found 12 gauge shotgun
23 ammunition and .22 gauge shotgun ammunition.

24 A Correct.

25 Q And large amounts.

1 A Yes.

2 Q But you did not find guns that matched any of that
3 ammunition?

4 A We did not.

5 Q So in this case, the presence of ammunition alone is not
6 proof of the presence of a gun, a particular gun, caliber gun?

7 A It is not.

8 MR. RICH: No further questions, Your Honor.

9 THE COURT: All right. Thank you. Redirect?

10 REDIRECT EXAMINATION

11 BY MS. MIDDLETON:

12 Q Agent Stallings, you were asked a question about during the
13 search warrant whether or not you saw the defendant, Heather
14 Beard, possess a firearm or possess any type of weapon. When a
15 search warrant is executed, are any occupants of that residence
16 allowed to have any type of item that may pose a threat,
17 specifically a firearm?

18 A No, they are not.

19 Q You were also asked a question regarding the containers
20 that are here today, the containers that are holding loose
21 ammunition. The black bag, do you -- does ATF consider that
22 evidence?

23 A We don't consider the bag itself as evidence. The
24 ammunition within the bag is the evidence.

25 Q Now, if there was a holster, would you have taken a

1 holster?

2 A We typically don't.

3 Q Defense counsel also asked you a question about specific
4 calibers of ammunition. What caliber of ammunition is in that
5 black box?

6 A In the black box, it contained .22 caliber ammunition.

7 Q In this box, .22 caliber?

8 A Yes.

9 Q And that same .22 caliber ammunition fits this weapon?

10 A It does.

11 Q And it was found where? Where was the ammunition found?

12 A The ammunition was found in that box within the closet in
13 the living room area.

14 Q I want to turn your attention to your post -- your prevideo
15 that you took before the execution of the search warrant. You
16 were asked some questions about clothing in the closet. I want
17 you to take a look at this video and tell me what you see in
18 the center of that screen. Here.

19 A The black box.

20 Q The clothing is there.

21 A Yes.

22 Q But the black box is also there.

23 A Yes.

24 MS. MIDDLETON: No further questions.

25 THE COURT: All right. Thank you. Can this witness

1 be finally excused?

2 MS. MIDDLETON: Yes, Your Honor.

3 THE COURT: All right. Thank you. Ladies and
4 gentlemen, we'll go ahead and take our afternoon break. It is
5 3:40. Let me ask you to come back at 3:55 and we will be in
6 recess until then. Court's in recess.

7 (Jury Out)

8 (Recess)

9 (Jury In)

10 THE COURT: All right. Whose next?

11 MS. CASE: Your Honor, the government calls Devin
12 Rice.

13 (Witness Sworn)

14 DEVIN RICE,

15 having first been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. CASE:

18 Q Agent Rice, will you please introduce yourself and spell
19 your name.

20 A Devin Rice D-E-V-I-N R-I-C-E.

21 Q What is your occupation?

22 A I'm an agent with the Mississippi Bureau of Narcotics.

23 Q How long have you been a law enforcement officer?

24 A Approximately seven years.

25 Q On December 2nd, 2016, were you present for the execution

1 of an arrest warrant at 4645 Van Winkle Park Drive in Jackson,
2 Mississippi?

3 A Yes.

4 Q Is there a home at that address?

5 A Yes.

6 Q What types of buildings were in the area around that
7 property?

8 A It was like a special shop building set up.

9 Q Who was to be arrested that morning?

10 A David Beard, I believe.

11 Q And what was your role during the arrest?

12 A I was assisting initially as a perimeter while contact was
13 attempted to be made with Mr. Beard. Mr. Beard came to the
14 door. I was still on the perimeter, and I was informed that
15 they were -- I guess ATF and the marshals were going to wait
16 and apply for an additional search warrant for the residence at
17 which time I still stayed outside until we were advised that
18 the search warrant was signed.

19 Q Did you participate in the search of the home at 4645 Van
20 Winkle Park Drive?

21 A Yes.

22 Q And what was your role during that search?

23 A My main role was searching what would be labeled as the
24 master bedroom.

25 Q And what types of items were you looking for?

1 A I believe weapons, firearms, and possibly drugs as well
2 since we were there -- myself and other agents were there with
3 the Bureau of Narcotics.

4 Q Did you walk through the entire home?

5 A I don't know that I went in every single room. But after
6 doing searching in the master bedroom, I made my way through
7 the house at different times looking.

8 MS. CASE: Your Honor, I would ask that I be able to
9 publish what has been admitted as Government's 28(b) and(c).

10 THE COURT: You may.

11 BY MS. CASE:

12 Q Agent Rice, I'm showing what is G-28(b) and(c). What is
13 shown here?

14 A It appears to be the front of the dwelling of the Beard's.

15 Q How about Government's Exhibit 28(c)?

16 A The door that the agent is standing by with the yellow
17 cutout is the front door, and the window I believe was an old
18 door but was closed in, sealed off.

19 Q At the front of the home?

20 A Yes.

21 Q Is this the home where the arrest and the search took
22 place?

23 A It is.

24 Q I'm going to show you what has been admitted as
25 Government's Exhibit 18(a) and ask if you recognize that.

1 A It appears to be the sketch of the approximate layout of
2 the building.

3 Q Is that a fair representation of the floor plan of the home
4 that was searched that day?

5 A To the best of my knowledge that I can recall.

6 Q Let me show you Government's Exhibit 29(l). What do you
7 see here?

8 A What appears to be the, I guess you could say, master
9 bedroom.

10 Q Is that the room that you searched that day?

11 A Yes.

12 Q How about this view what is represented in Government's
13 Exhibit 29(m) ?

14 A Again that's the master bedroom, and the angle of the
15 photograph is looking back towards what would be behind that
16 wall would be the outside of the front of the building. The
17 bed there in the center and behind the photographer would have
18 been a dresser or chest of drawers.

19 Q Are the photographs, the two photographs you saw of the
20 bedroom, Government's 28(l) and(m), fair representations of the
21 bedroom at 4645 Van Winkle Park Drive?

22 A To the best of my knowledge.

23 Q At the time of your search?

24 A Correct.

25 Q How many bedrooms were in that home?

1 A I believe all in all it was just that one bedroom.

2 Q Can you tell the jury where in this room you searched?

3 A Primarily I was on the -- if you're looking at the photo,
4 the left side of the photograph where you can see a mirror, a
5 large mirror propped up against the wall as well as where some
6 equipment is plugged in and what appears to be some type of
7 nightstand in the corner as well.

8 Q Do you recall were there men or women's items on that
9 particular side of the bed?

10 A I believe it was mostly women.

11 Q I'm going to show you Government's Exhibit 34(g). Can you
12 tell the jury what is shown in this photo?

13 A A fan, lotion looks like.

14 Q Let me back up. Can you help orient the jury where is this
15 photo? Where in the house?

16 A This is the -- what I call the nightstand that was in the
17 same far corner of the bedroom on that side.

18 Q When you say "that side," would you say that's the left or
19 the right side, if you're looking at the head of the bed
20 standing at the foot of the bed?

21 A At the angle photograph, it would be the far left corner.

22 Q Left corner. Can you touch that screen in front of you and
23 circle where that nightstand is?

24 A (Witness complied with request).

25 Q And what of significance did you find during your search of

1 that portion of the bedroom?

2 A Behind the mirror or -- which is here, stands all the way
3 to the floor. Want me to just mark it?

4 Q Can you show that again?

5 A The mirror is here propped up against the wall.

6 Q So you've circled on Government's 29(m) the left portion of
7 the photograph.

8 A Yes.

9 Q Okay. So tell us what you found of significance in that
10 area.

11 A In the photo, you can see that the mirror -- the base of
12 the mirror on the floor is not flush with the wall. It's not
13 up next to it. And I recall from the top here pulling that
14 area back. And at the bottom in that void by the floor, I
15 recovered a black bag or case small, and inside of that case I
16 recovered a silver with black handle revolver.

17 Q And you said you found a black bag. How big was that bag?

18 A Like a large digital camera size.

19 Q How much larger than the revolver would it have been?

20 A Not very much.

21 Q And what else was behind the mirror?

22 A There was other junk really. I believe there was a
23 zip-lock bag of some sort, and it had pill bottles labeled in
24 them as well. I believe they were labeled Ms. Beard's name on
25 them.

1 Q What did you do after you found the revolver?

2 A I notified the ATF agent that I had recovered a revolver at
3 which time an ATF agent came into the room, photographed the
4 pistol -- the revolver and I assume took more photographs at
5 the location where I recovered it.

6 Q Did you do anything to the revolver before ATF agent
7 arrived?

8 A I took it out of the case, opened the action to render it
9 safe, and I do believe there was not any ammunition in the
10 revolver at the time.

11 Q You said that you called the ATF agents. Do you remember
12 which agent you called?

13 A I do not.

14 Q Did you find anything else of significance during your
15 search?

16 A No.

17 Q I'm going to show you one more time if we -- if you can
18 circle for us the area of the room that relates to the gun that
19 you found.

20 A In this void behind the mirror that's on the left side of
21 the bedroom.

22 Q And if we progress through these photographs from 29(m),
23 Government's 29(m) to Government's 34(g), that takes us from
24 the entry to the bedroom to where in the bedroom?

25 A All the way in that far left corner by the black

1 nightstand.

2 Q And what is shown at the bottom of that nightstand near the
3 bottom of that nightstand?

4 A Bottles, a case of pill bottles here.

5 Q Is that the bag of bottles that you were discussing?

6 A Yes, appeared to be.

7 Q Let me show you -- while we're on this photograph, is there
8 anything of relevance on the nightstand itself that you see in
9 this photograph?

10 A There's I think some kind of makeup or marker bag.

11 Q I've circled the front right corner of that nightstand. Do
12 you know what's inside that circle?

13 A It appears to be a bullet of some sort.

14 Q Do you know who recovered that bullet?

15 A I do not.

16 Q I'm going to show you Government's Exhibit 34(a). What is
17 shown here?

18 A It appears to be the black case. There's a glare on the
19 picture, but it appears to be the black case behind the mirror
20 that was broken.

21 Q Can you help -- help orient the jury by showing where the
22 mirror is that you're discussing?

23 A The broken edge is here. It continues about -- right there
24 is the floor.

25 Q So if one was standing and looking at themselves in the

1 mirror, that would be the right side of the mirror?

2 A Yes.

3 Q And how did that mirror break? Do you know?

4 A At some point moving the mirror -- I believe after I found
5 the revolver and the revolver was placed for photographic
6 depiction, I believe the mirror on that right side was broken.

7 Q Can you -- to help us make sure we're oriented to where we
8 are in the bedroom, can you highlight for the jury where the
9 nightstand is, the black nightstand is in Government's 34(a)?

10 A (Witness Complied with Request.)

11 Q And in that mirror we see a person or multiple people. Can
12 you describe what's shown in terms of that body?

13 A I'm assuming the right side of the photo, which you see
14 blue jeans here, is going to be an agent. And then this mirror
15 reflection of two feet possibly of the same agent or another
16 agent taking the picture.

17 Q So on the left side of the screen is a reflection in the
18 mirror?

19 A Yes.

20 Q If you would, show the jury where the gun was found.

21 A Inside of this what looks like in the picture the black
22 case.

23 Q Was this photograph taken before or after you found that
24 gun?

25 A After.

1 Q Is it fair to say this is a recreation?

2 A It is.

3 Q And how did the agents who were taking this photograph know
4 how to recreate this scene?

5 A When I located the revolver in the black case and called an
6 ATF agent in the room, I advised the agent where I had found
7 and showed -- leaned the mirror back and showed him that it was
8 on the -- in that void area at the base of the mirror by the
9 floor.

10 Q What is under the black bag that you circled on this
11 screen?

12 A I guess you're referring to the pill bottles in the case?

13 Q I'm going to show you Government's Exhibit 34(b). Can you
14 tell the jury what is shown?

15 A That appears to be the revolver that I recovered.

16 Q This is the revolver that was in the black bag?

17 A Yes.

18 Q Do you know what caliber this is?

19 A The barrel is stamped .22 long rifle.

20 Q What's shown in Government's 34(c)?

21 A The other side of the revolver.

22 Q Do you know who manufacturers this revolver?

23 A Taurus.

24 Q Is that the handgun that you found -- is that a photograph
25 of the handgun that you found in the black bag?

1 A Yes.

2 MS. CASE: Your Honor, may I retrieve an exhibit from
3 the table?

4 THE COURT: You may.

5 BY MS. CASE:

6 Q I'm going to hand you what's been admitted as Government's
7 Exhibit 4. Do you recognize that?

8 A Yes. It's the revolver that's photographed.

9 Q And the revolver you found in the black bag?

10 A Yes.

11 MS. CASE: May I retrieve that, Your Honor?

12 THE COURT: Yes.

13 BY MS. CASE:

14 Q We saw in the photograph some pill bottles that you
15 referenced. Government's 34(i) depicts what?

16 A It appears to be the same bag that had the pill bottles in
17 them where the revolver was recovered.

18 Q And how about Government's 34(j)?

19 A I believe those are the same three pill bottles as in the
20 previous photo that you can make out the name Heather Wright on
21 them.

22 MS. CASE: Your Honor, may I approach the witness?

23 THE COURT: Yes.

24 BY MS. CASE:

25 Q Agent Rice, I've handed you what's been admitted as

1 Government's Exhibit 27(b). Do you recognize that?

2 A Yes, ma'am.

3 Q What is that?

4 A Ms. Beard.

5 Q Do you know what -- if that's a fair representation of
6 Heather Beard at the time of the search on December 2, 2016?

7 A Yes, that's how I recall her.

8 MS. CASE: May I retrieve the exhibit?

9 THE COURT: Yes.

10 MS. CASE: May I publish to the jury?

11 THE COURT: I think it's in evidence.

12 MS. CASE: It is.

13 BY MS. CASE:

14 Q I'm showing Government's Exhibit 27(b), and that is as you
15 remember Ms. Beard on the day of the search?

16 A Yes, ma'am.

17 Q Do you see Ms. Beard in the courtroom today?

18 A I do.

19 Q Can you identify her for the jury?

20 A Blonde female at the defense table, black blouse -- white
21 blouse, back jacket.

22 MS. CASE: Your Honor, can the record reflect he has
23 identified the defendant?

24 THE COURT: So reflect.

25 BY MS. CASE:

1 Q Was Ms. Beard present when law enforcement was searching
2 her home on December 2, 2016?

3 A Yes.

4 Q Was she aware that a revolver was found behind the mirror
5 in the bedroom?

6 A Yes.

7 Q What, if anything, did Ms. Beard say after you found the
8 revolver?

9 A After I completed my search of the bedroom, I believe
10 Ms. Beard was in the -- not dining room but living room foyer
11 area, which is just adjacent to the bedroom before you go into
12 the front door and kitchen area. Multiple agents were there
13 with her in that room. As I was in and out of different areas
14 of the house, and I remember -- recall at one time someone
15 posed a question to Ms. Beard, *Where did you get the gun?* And
16 I recall to some effect Ms. Beard saying, *I got the gun from*
17 *him or He gave me the gun for a birthday present.*

18 Q For a birthday present?

19 A Correct.

20 Q Do you remember anything else related to the revolver that
21 Ms. Beard said that day?

22 A I don't.

23 MS. CASE: Court's indulgence, Your Honor.

24 (Short Pause)

25 MS. CASE: Government tenders witness.

1 THE COURT: All right.

2 CROSS-EXAMINATION

3 BY MR. RICH:

4 Q Agent Rice, you mentioned earlier that you were present
5 when David Beard was arrested.

6 A Yes.

7 Q Ms. Beard was not arrested that day?

8 A That I don't know.

9 Q You did not arrest her that day?

10 A No, I did not.

11 Q You did not see her arrested that day?

12 A I know she was detained. But when I was finished at the
13 scene, I don't recall if she was arrested and taken to another
14 location or not.

15 Q She was initially cuffed.

16 A I believe so.

17 Q And then she was unhandcuffed.

18 A I don't believe that I saw her unhandcuffed at any time.

19 Q Okay. Who directed you to search the bedroom?

20 A I don't remember anyone specific.

21 Q You said you searched the left side of the bedroom looking
22 at the photograph.

23 A Correct. The photograph in your hand.

24 Q Showing you what's been marked as G-29(1), the photograph
25 of the bedroom, you said you searched the left side of the

1 bedroom looking at that photograph.

2 A Correct. And the angle of that photograph is more angled
3 towards the right side.

4 Q Okay. I'm going to show you what's been marked as G-29(m),
5 a more straight-on photograph. Is this the same bedroom?

6 A Yes.

7 Q Okay. You mentioned someone searched the right side of the
8 bedroom.

9 A Best I recall there was at least three or four officers in
10 that room at some point.

11 Q You said that this mirror on the left side that I've marked
12 on the left side of the bedroom, that's the mirror that you
13 pulled away?

14 A Correct.

15 Q And directly behind it is -- or close behind it is the
16 nightstand?

17 A Correct, past it.

18 Q I'm showing you what's been marked as G-34(g), which is a
19 picture of that nightstand.

20 A Yes.

21 Q I've highlighted for you something on the corner of this
22 nightstand. You identified that earlier as a .22 caliber
23 bullet.

24 A That's what it looks like to me, yes.

25 Q This is directly next to the mirror or very close proximity

1 to the mirror you've stated.

2 A Yes.

3 Q And you found the gun behind the mirror but not this bullet
4 next to it, you mentioned.

5 A I don't recall that bullet being there on the corner of the
6 table at the time that I searched.

7 Q Okay. I wanted to ask you about -- again about this
8 photograph straight on from the bedroom. You said that about
9 the bullet not being there. Agent Rice, you see something --
10 you see something blue to the right of that mirror? Do you see
11 where I'm pointing?

12 A Under the --

13 Q The charger cords.

14 A Yes.

15 Q It appears -- would you agree it appears to be a blue
16 bucket, some blue container?

17 A Yes.

18 Q And that appears to be between the mirror and that
19 nightstand?

20 A Yes.

21 Q I'm again showing you what's been marked as G-34(g). This
22 is a photograph with pill bottles -- what's been identified as
23 pill bottles in the bottom of the photograph. Is that correct?

24 A Correct.

25 Q Okay. And you said earlier that this photograph is a

1 recreation?

2 A To the best of my knowledge.

3 Q Okay. And you said earlier that you don't recall that
4 bullet that's in this photograph also being on the bedside
5 table when you searched behind the mirror.

6 A Not in that exact location.

7 Q So before this picture was taken, you testified that things
8 were put back to recreate the scene.

9 A I testified that the revolver that I recovered in the black
10 case was put back. I don't know about any other evidence that
11 was recovered because I didn't find that bullet or I don't know
12 who found that bullet.

13 Q Okay. And I think I may have shown you the wrong
14 photograph, Agent Rice. I apologize. I believe you were
15 testifying to this about 34(a) earlier, the black bag next to
16 those pill bottles. Is there a blue container in this
17 photograph between the mirror and the nightstand?

18 A Doesn't appear to be.

19 Q Does there appear to be something blue inside the
20 nightstand?

21 A Where you pointed, yes.

22 Q I'm going to show you a photograph that you said was taken
23 prior to searching. Does it appear to be anything blue from
24 the nightstand in this picture?

25 A No. But I do not know that this picture was taken prior to

1 the search. I don't know who took pictures.

2 Q But you'd agree in one picture there's something blue from
3 the nightstand and now there's not something blue in the
4 nightstand.

5 A It appears.

6 Q Agent Rice, do you know of any other photographs that were
7 recreated?

8 A No, because I don't recover -- I don't recall recovering
9 any other evidence of value.

10 Q You mentioned earlier that you overheard Ms. Beard say
11 something or respond to a question about the gun being a gift,
12 a birthday gift. Is that correct?

13 A That's correct.

14 Q Do you remember her exact quote?

15 A I do not.

16 Q Did you make a report in this case?

17 A I did not.

18 Q Did you take a written statement from her?

19 A I did not.

20 Q Did you take a recorded statement from her?

21 A Did not.

22 Q Can you recall the exact wording of the question posed to
23 her?

24 A To the best of my knowledge from what I recall was, *Where*
25 *did you get the gun?*

1 Q Do you know when Ms. Beard's birthday is?

2 A I do not.

3 Q Did she say when she gained knowledge of the gun?

4 A How do you mean?

5 Q Did she say -- did she say, *I received it after my*
6 *birthday? Did she say -- I'll ask you that.*

7 A I don't know at what time, all I know is best I recall she
8 made mention it was a birthday present.

9 Q So you don't know if she received it that day or six months
10 prior?

11 A I don't know which day she received it.

12 MR. RICH: I tender the witness.

13 THE COURT: All right. Redirect?

14 REDIRECT EXAMINATION

15 BY MS. CASE:

16 Q Agent Rice, would it have been possible to photograph the
17 location of the revolver before you found it?

18 A I'm sorry?

19 Q Would it have been possible to photograph the location of
20 the revolver before you found it?

21 A In the condition I found it, no, I was not be able.

22 Q Why not?

23 A It was concealed inside the black case behind the mirror.

24 Q Behind a mirror. Is -- are the photograph that we saw of
25 the black bag's location accurate recreations of where you

1 found the black bag?

2 A Yes. Other then the mirror being broken and part of it

3 missing.

4 Q So the mirror would have been intact when you found the

5 black bag?

6 A Yes. As it was in one of the other photographs, I believe.

7 Q The location of the black bag in the bedroom is

8 geographically accurate?

9 A To the best of my knowledge.

10 Q Government's 34(a) shows the black bag?

11 A Yes.

12 Q And you would have the knowledge because you found the

13 revolver. Correct?

14 A That's correct.

15 Q Who told the photographing agents how to place the black

16 bag?

17 A I would have because I was the one that found it.

18 Q When agents execute a search warrant, do they move items

19 about a room?

20 A Yes.

21 Q If photographs are taken during a search, is it likely that

22 an item will be shuffled -- an item's position will change in

23 various photographs because a search is ongoing?

24 A Yes.

25 Q I'd like to show you Government's Exhibit 28(l), and I'll

1 direct you to the foot of the bed if you can tell us what
2 object is shown at the foot of the bed, what large piece of
3 furniture.

4 A Under that red like cover or blanket I guess like a trunk
5 or a chest, wooden trunk or chest.

6 Q If I show you -- let me back up. What types of items are
7 on top of that trunk?

8 A Looks like a black ashtray, something clear with a leopard
9 print, makeup bag or some kind of bag.

10 Q Now, I will show you Government's Exhibit 34(a). What
11 piece of furniture is shown in the center of that photograph?

12 A I believe that's the same trunk that was under the red
13 sheet.

14 Q Where's the red sheet? Can you tell in the photograph?

15 A Appears to be in the bottom right where the time stamp is.

16 Q Where's the leopard print bag that you were referring to?

17 A Directly above that between something white and the red
18 sheet.

19 Q What's on top of that trunk now?

20 A Appears to be laptop or laptop computers.

21 Q Is it fair to say that objects have been moved during the
22 course of the search?

23 A Between these photos, yes.

24 Q Mr. Rich asked, but the statement that you overheard
25 Ms. Beard make after the revolver was found, you say you don't

1 remember the particulars of the phrase that she used?

2 A Correct.

3 Q But you do remember what, about what she said?

4 A The fact that she said along the lines that she got the
5 revolver for a birthday present, either referring to David
6 Beard, I would assume. And I thought it was odd that I
7 recalled she saying that because Mr. Beard being a convicted
8 felon would be gifting Ms. Beard a revolver, who is under my
9 impression was also a convicted felon.

10 MS. CASE: No further questions, Your Honor.

11 THE COURT: All right. Thank you. You can step down.

12 Ms. Case, do you have a short witness?

13 MS. CASE: I do not, Your Honor.

14 THE COURT: You said you do not?

15 MS. CASE: I do not.

16 THE COURT: Well, why don't y'all come up for a minute
17 and let's coordinate.

18 (At the Bench:)

19 MS. MIDDLETON: We expect our next witness to be
20 fairly lengthy.

21 MS. CASE: Maybe like an hour and a half.

22 THE COURT: How are we in terms of progress today?

23 MR. RICH: I think we can finish tomorrow.

24 MS. MIDDLETON: Yeah.

25 THE COURT: You do?

1 MS. MIDDLETON: Depending on you.

2 MR. RICH: If it's dependent on me, I think we can
3 finish tomorrow.

4 THE COURT: I'll let the jury go, and I'll tell them
5 there's a chance they may stay a little later tomorrow, phrase
6 it out that way.

7 (Bench Conference Concluded)

8 THE COURT: Okay. The next witness I understand is
9 going to be fairly lengthy. It doesn't make any sense to put
10 somebody on the stand at 4:35 and stop them 25 minutes later
11 and break it up like that. I believe we're making appropriate
12 progress in this case. I'm going to let you go for the night.
13 It's hard to predict sometimes how long things will take.
14 There's -- in criminal trials, both parties have a right to
15 have the trial -- put on the case they need to put on. I'm not
16 going to rush it. It could finish tomorrow or it could spill
17 over into Friday morning. So I would ask you to, I guess, be
18 prepared in the event that you get the case tomorrow, say,
19 around tomorrow afternoon sometime, make arrangements in case
20 we need to stay a little bit past 5 or as long as it takes, if
21 you're in the deliberation process, if that makes sense. It's
22 hard to predict. It will either be tomorrow afternoon or
23 probably first thing Friday, one of the two.

24 All right. Now, I need to remind you of the
25 instructions I've given you before that don't -- this is where

1 it gets important because you're going to go home and whoever,
2 your spouse or your roommate or whatever, is going to say, *Hey,*
3 *what's going on? What kind of case is it?* And all that. You
4 just have to tell them, *I can't tell you.*

5 The reason for all of these, you know, you may say
6 something pretty innocent and your roommate says, *Oh, I heard*
7 *about that*, and blurt something. Or you may go do some
8 research and find something that may be -- believe it or not,
9 not everything on the Internet is true. It may not be
10 accurate, but because you found it outside the courtroom, the
11 attorneys would be deprived of an opportunity to explain to you
12 why what you found was wrong. So the case has been decided on
13 what happens here. So it's now really important.

14 No research, no communication about the case. I want
15 to again remind you you have to keep an open mind until you
16 hear all the evidence and until you've heard the instructions
17 on the law. Sometimes I'm in trial and we get like a five-day
18 trial and the jury's checked out after day four. They think
19 they know what's going on. And on day 5, some witness says
20 something and all of the sudden I see all those jurors grabbing
21 their notepads and start scribbling and they start panicking
22 because they realize they haven't really been paying attention
23 like they should have.

24 You never know what's going to happen in a trial.
25 You've got to keep an open mind until we get to the very end.

1 Again if it happens to be anything in the media, which I don't
2 expect, I'll need for you to let me know tomorrow morning.

3 With that, I'll ask you to put the notepads in the
4 jury room and we will see you -- we'll start at 9:00 sharp
5 tomorrow morning. Thank you.

6 (Jury Out)

7 MS. CASE: Your Honor, we have no further need for
8 agent Devin Rice, and he can be released, if that's acceptable.

9 THE COURT: Is he subject to recall?

10 MR. RICH: No, Your Honor.

11 THE COURT: All right. He may be released. All
12 right. Anything else we need to put on the record before we
13 adjourn for the night?

14 MS. MIDDLETON: Nothing for the government.

15 MR. RICH: Nor the defense.

16 THE COURT: Okay. Ms. Beard, I'm going to advise you.
17 one more time you've got to be here on time. If I say 2:00, I
18 don't mean 2:05. Everybody else was here ready to go. I would
19 get here early tomorrow, if I was you. All right. Anything
20 else? No? All right. We're adjourned. Thank you.

21 (Recess)

22

23

24

25

1 CERTIFICATE OF REPORTER
2

3 I, CHERIE GALLASPY BOND, Official Court Reporter, United
4 States District Court, Southern District of Mississippi, do
5 hereby certify that the above and foregoing pages contain a
6 full, true and correct transcript of the proceedings had in the
7 aforementioned case at the time and place indicated, which
8 proceedings were recorded by me to the best of my skill and
9 ability.

10 I certify that the transcript fees and format comply
11 with those prescribed by the Court and Judicial Conference of
12 the United States.

13

14

This the 16th day of June, 2018.

15

16

s/ *Cherie G. Bond*
Cherie G. Bond
Court Reporter

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25

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

UNITED STATES OF AMERICA

VS. CRIMINAL NO. 3:17-cr-00140-DPJ-FKB-2

HEATHER ELIZABETH WRIGHT-BEARD

TRIAL TRANSCRIPT
VOLUME 2

BEFORE THE HONORABLE DANIEL P. JORDAN III
CHIEF UNITED STATES DISTRICT JUDGE
AND A JURY
JUNE 14, 2018
JACKSON, MISSISSIPPI

APPEARANCES:

FOR THE GOVERNMENT: MS. KEESHA D. MIDDLETON
MS. JENNIFER CASE

FOR THE DEFENDANT: MR. ROBERT THOMAS RICH

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1 THE COURT: Good morning. Let me -- we have more than
2 one snag this morning so we'll work through this. The first
3 snag is that our alternate -- one of our alternate jurors was
4 parking his car over at the Westin and somebody hit his car so
5 he's not here. He's -- last word I got is that he's dealing
6 with all that and will be here as soon as he can. He's not
7 here.

8 The other issue is that the defendant is not here.
9 And, Mr. Rich, I know -- she called in -- just for the record,
10 she called into the office, spoke to my law clerk, said that
11 she had an altercation with her boyfriend last night or
12 something. Anyway, I think you've now spoken with her.

13 MR. RICH: Yes, Your Honor. I spoke with her in your
14 law clerk's office. She said she was calling from somewhere
15 called Old Town Road Specialties. She said that her phone was
16 smashed during that altercation with her boyfriend and she was
17 left without a vehicle.

18 I tried to call her this morning prior to court
19 around -- I can tell you the exact time, Your Honor. I called
20 her at 7:56 this morning, and I also called her at 7:37 this
21 morning, and both calls went directly to voicemail. I can't
22 confirm if that's because the phone was turned off or if it
23 verifies her story or not.

24 She said that someone was there -- someone by the name
25 of Chico who could give her a ride. I don't know his complete

1 name. She said she could be here in 15 to 30 minutes when she
2 gets dressed. I told her to please come on.

3 She did say that she had some broken toes which caused
4 her to be in severe pain. I said if she could get through it
5 and could sit at counsel table with me without receiving any
6 medical attention for those toes, please come on, and she said
7 she could.

8 THE COURT: All right. Do you have any idea
9 whether -- whether the jury could tell that she's been in an
10 altercation?

11 MR. RICH: Without seeing her, I don't know.

12 THE COURT: She didn't say anything getting --

13 MR. RICH: She didn't say about any bruising, any
14 scratches. I don't know.

15 THE COURT: Okay. Well, we'll just have to cross that
16 bridge, you know, when she does get here. Shone told me there
17 were a couple of other issues that y'all want to take up, and
18 we'll go ahead and do that now. Ms. Middleton -- Ms. Case?

19 MS. CASE: Your Honor, the government anticipates the
20 next witness being David Beard, and his -- he has pled guilty
21 and is detained in this case. His counsel is Ms. Jessica
22 Borne, and Ms. Borne has asked if the court would like to
23 advise Mr. Beard of any of his Fifth Amendment rights, and she
24 has also asked that during Mr. Beard's testimony that she be
25 allowed to sit within a reasonable distance so that she can

1 communicate with him if needed.

2 THE COURT: What's your position?

3 MS. CASE: We are amenable to both of those requests.

4 THE COURT: Okay. When you -- you're not talking
5 about having her sit over here by the witness stand, are you?

6 MS. CASE: We are, Your Honor.

7 THE COURT: I've never had that request, and I've
8 never seen that done. Why would she have to be sitting there
9 basically holding his hand?

10 MS. CASE: I have just seen that previously, Your
11 Honor, where the witness' counsel can be available in a body
12 language sort of way of, *Let me stop and talk to you or*
13 something like that.

14 THE COURT: Mr. Rich, do you have a position on this?

15 MR. RICH: I don't have any objection.

16 THE COURT: All right. Where exactly -- I have been a
17 little apprehensive about Mr. Beard and Ms. Beard from a
18 security standpoint already, and we have three of our marshals
19 here. I was -- in fact, I was going to instruct Singleton -- I
20 was going to instruct you to tell the boyfriend that he was not
21 going to be in the courtroom. I was getting some bad vibes
22 about him yesterday. So where exactly would she sit? Because
23 I think I'm going to have the marshal sitting if not right
24 where you are, maybe a little to the left.

25 MS. CASE: Anywhere that the marshals feel is safe,

1 even between the two counsel tables sort of in line with where
2 we are she would have fairly clear view of her client there.

3 THE COURT: Okay. I think that's better. You just
4 may pull up a chair right between the tables, and I'm okay with
5 that. The parties don't have any objection to it, I take it.

6 All right. We'll -- and I think that she's going to
7 have to be here before I -- before we bring him in before I
8 give him his Fifth Amendment instruction. Were there any other
9 issues that we need to take up?

10 MS. CASE: None that come to mind, Your Honor.

11 MR. RICH: Not from the defense, Your Honor.

12 THE COURT: All right. Well, we'll take a recess and
13 I have sent word back to the jury that we're short an
14 alternates right now because of the car wreck, and I said
15 there's some other things that we're dealing with. I didn't
16 tell them what it was. Just be thinking about it, I suppose,
17 if the defendant gets here before the alternate I feel like we
18 could get by with one alternate if that person is going to be
19 gone for most of the morning.

20 And I don't know that that's the case, but I can't
21 imagine losing two more jurors in the span of what we think
22 will be one day. So I would think about dropping that
23 alternate and moving forward assuming that she gets here and he
24 does not.

25 All right. If there's nothing else, we'll be in

1 recess until she shows up. Just let me know.

2 (Recess)

3 THE COURT: All right. Obviously we're not starting
4 on time. I'm not going to waste any time right now dealing
5 with that. I am going to deal with it, but not right now. The
6 jury's been sitting back there for over 30 minutes waiting.
7 Let's take care of Mr. Beard's instructions and then we'll get
8 it moving. Are we ready to bring them in?

9 MS. MIDDLETON: Yes, Your Honor.

10 THE COURT: Okay.

11 (Witness Enters Courtroom)

12 THE COURT: All right. Mr. Beard, good morning.

13 MR. BEARD: Good morning.

14 THE COURT: Mr. Beard, at this point I need to give
15 you some standard instructions, standard warnings having to do
16 with your Fifth Amendment right to the remain silent. Sir, you
17 understand that if you want to testify you can, but that if you
18 do not wish to testify you don't have to. Do you understand
19 that?

20 MR. BEARD: Yes, sir.

21 THE COURT: Okay. Do you also understand that whether
22 or not you testify is a decision that you and you alone must
23 make? I assume you spoke with your attorney, Ms. Borne, who's
24 here in the courtroom. But at the end of the day, you're the
25 one who has to decide whether you want to go forward. Do you

1 understand that?

2 MR. BEARD: Yes, sir.

3 THE COURT: Do you understand that?

4 MR. BEARD: Yes, sir.

5 THE COURT: Okay. Do you understand that once you
6 respond to a question that you would then have to give
7 responses to relevant followup questions? Do you understand
8 that?

9 MR. BEARD: Yes, Your Honor.

10 THE COURT: Okay. All right. Counsel, is there
11 anything else you want me to cover here?

12 MS. CASE: Nothing further, Your Honor.

13 THE COURT: Okay. Are we ready to bring the jury in?

14 MS. CASE: We are, Your Honor.

15 THE COURT: Okay.

16 (Jury In)

17 THE COURT: Good morning. I'm sorry for these delays.
18 You know, real trials, it's not like watching TV where
19 everything happens in 30 minutes. Life gets in the way
20 sometimes, and I understand one of you had a problem with your
21 car. I'm not sure who that was, but I'm sorry about that.

22 We are ready to proceed. I do need to ask you whether
23 any of you have anything you need to report to me about the
24 instructions I gave you at the end of the day. No? All right.
25 Government call its next witness.

1 MS. CASE: Government calls David Beard.

2 THE COURT: All right.

3 (Witness Sworn)

4 THE COURT: You may proceed.

5 DAVID BEARD,

6 having first been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. CASE:

9 Q Mr. Beard, will you please introduce yourself and spell
10 your name.

11 A I'm David Calvin Beard D-A-V-I-D C-A-L-V-I-N B-E-A-R-D.

12 Q Are you known as any other name or nickname?

13 A I'm known as Cornbread.

14 Q Do you know the defendant, Heather Beard?

15 A Yes, I do. She's my wife.

16 Q Do you see her in the courtroom today?

17 A I do. She's sitting in the black shirt.

18 MS. CASE: Your Honor, can the record reflect that
19 Mr. Beard has identified the defendant?

20 THE COURT: It is will so reflect.

21 BY MS. CASE:

22 Q Mr. Beard, were you arrested on your home on December 2,
23 2016?

24 A Yes, ma'am.

25 Q Where is that home?

1 A [4645 Van Winkle Park Drive] Jackson, Mississippi.

2 Q Do you own other property in that area?

3 A I own the one next to it, which is [4645 -- 4745]. I haven't
4 been there in two years.

5 Q Can you describe the area around your home and that other
6 property?

7 A It's an industrial park with a dead-end drive and big
8 commercial buildings.

9 Q I'm going to show you -- I'm showing you what's marked
10 Government's Exhibit 28(b). What is shown in this photograph?

11 A That is the front of my building. My Yukon and Heather's
12 Firebird.

13 Q And when you say your building, is that your home?

14 A That's our home. In the front of it we have an apartment
15 we built.

16 Q And the other property that you own in the area, where is
17 that? Is that shown?

18 A It's to the left. If you look it's the building to the
19 left, and we used to own the one to the right too.

20 Q Okay. What is shown in Government's Exhibit 28(c)?

21 A That's the front door to our house, to our building.

22 Q Roughly how many square feet was your house at [4645 Van
23 Winkle Park Drive]?

24 A The living area is about 1,000 square foot, 900 to a
25 thousand. The shop area is about another 3,000.

1 Q How many bedrooms did your home have?

2 A Just one.

3 Q I'm going to show you Government's Exhibit 18(a) and ask if

4 you recognize this.

5 A That is a floor plan of our living area.

6 Q Is that generally accurate floor plan of that house?

7 A Yes, ma'am. It's pretty accurate.

8 Q And if you could, use this as a guide and you can touch the

9 monitor in front of you and just point out each room in the

10 residential part of that house.

11 A This is the front door. That's the front door right here.

12 Q One moment. Let me fix this. Try that again.

13 A Right there's the front door. This is our kitchen area.

14 This goes to the living room. Then here's our bedroom right

15 here, and then in the back I have a closet here. There's a

16 sink and there's a pantry area, washer/dryer. These are our

17 tub and our shower and our toilet.

18 Q Okay. Who was present at your house at the time that you

19 were arrested on December 2, 2016?

20 A Heather and I.

21 Q Were you at your house when law enforcement officers

22 searched your home on that day?

23 A No, I was not.

24 Q Even so, are you familiar with the evidence that the

25 officers and the agents took from your house that day?

1 A Yes, I am.

2 Q What types of items were taken out of your house by law
3 enforcement officers?

4 A Two guns, ammunition, and electronics.

5 Q Any drug paraphernalia?

6 A And drug paraphernalia.

7 Q I'm going to show you a series of photographs that have
8 been admitted of the interior of your home and ask that as I
9 show them that you tell the jury what's shown on the screen.
10 And we're going to start with Government's 29(a).

11 A That is me standing there in custody in my front kitchen
12 area right there by the front door.

13 Q When was this photograph taken?

14 A The morning of December 2nd. That is our dining area right
15 in our kitchen. When you step from the front door, it's right
16 to the right.

17 Q How about -- that was 29(b). How about 29(c)?

18 A That would be the hallway that goes back to the shop and to
19 my closet, and then there's another doorway that leads into the
20 living room.

21 Q The doorway on the left most side of the photo leads into
22 where?

23 A The living room.

24 Q And the doors through the center of the --

25 A That leads to the garage area, pantry area and to my

1 closet. He's facing my closet.

2 Q 29(d) is -- what is that?

3 A That's that hallway that he was just standing in. To the
4 left of the trash can is a closet, to the right is a sink, and
5 then through that other doorway to the left is our pantry and
6 also a door that goes out into the garage area.

7 Q So in this photograph, the photographer moved forward
8 several feet?

9 A Yes, ma'am.

10 Q And how did the photographer change his position for 29(e)?

11 A He's kind of off to the right. The doorway to the left is
12 into the living room.

13 Q That's the left most side of the photo?

14 A Yes, ma'am. The doorway to the right you could see my
15 closet right there.

16 Q In the center of the photograph. I'm going to show you
17 29(f) and ask what's here.

18 A That's the interior of my closet.

19 Q I'm going to draw a circle around the object in the center
20 of this photograph and ask you what that is.

21 A That is a gun safe.

22 Q When did you get that gun safe?

23 A I got it back in the earlier part of the summer.

24 Q Of 20- --

25 A '16.

1 Q And what's in 29(g)?
2 A That's the interior of the closet.
3 Q That's similar to the prior photograph?
4 A Yes, ma'am.
5 Q And how about what's shown in 29(h)?
6 A That's the sink that's right across from the closet in that
7 little hallway.
8 Q And what's in 29(i)?
9 A That is a view of our living room from the kitchen. That's
10 a little pass-through window, and you can see the wall and
11 stuff in other living room.
12 Q Okay. And I'm going to skip to 29(k) and ask you what's in
13 that photograph?
14 A That is our living room picture of the -- that would be the
15 front wall outside the shop were the door -- the window, and
16 that's our living room right there.
17 Q Okay. And what's in 29(j)?
18 A That's a picture standing in our living room. Looking
19 straightforward is our bedroom and to the right is Heather's
20 closet.
21 Q So can you mark on the screen for the jury and show the
22 entrance to the bedroom.
23 A Yes. That's our bedroom.
24 Q And is that headboard in the back, is that the bed?
25 A That is the bed frame we had just purchased. We had not

1 put it up yet. Our mattresses were on the floor.

2 Q Can you show in this photograph where a dog crate is?

3 A Where what is?

4 Q Dog crate.

5 A It's right here, right there.

6 Q Would you show the jury -- you mentioned a closet, where

7 that is?

8 A It's right behind -- it's right there.

9 Q So that's the dark spot on the right side of the

10 photograph?

11 A Yes, ma'am.

12 Q And what's shown in 32(a)?

13 A That is Heather's closet.

14 Q Is that what you just showed on the right side of the

15 photograph?

16 A Yes, ma'am. That's it.

17 Q Now, what do we see in 29(l)?

18 A That's our bedroom, our bed that would be the left wall

19 once you come through the doorway.

20 Q And how about 29(m)?

21 A That's a straight view of our bed standing at the foot of

22 the bed.

23 Q Is the photographer standing near the doorway to the

24 bedroom?

25 A He's inside the doorway about at the foot -- there's a

1 Cedar chest right there at the foot of the bed, and he's
2 standing kind of in front of it.

3 Q What's shown in 29(n)?

4 A The photographer turned around. That would be the back
5 wall in our bedroom.

6 Q And 29(o)?

7 A That is our pantry. A freezer to the left and washer and
8 dryer in the very back. My closet where I hung my clothes and
9 stuff are right there to the your right, and my clothes are in
10 crates on the floor there.

11 Q Can you circle your clothing that you're discussing?

12 A Yes.

13 Q And how about the crates that you mentioned?

14 A Right there.

15 Q What's in 29(p)?

16 A It's just supplies. We had been remodeling. Heather had
17 been doing a bunch of painting. It's tape and such that she
18 had that we both had used.

19 Q What about 29(q)?

20 A That is a bathtub that we had installed.

21 Q And finally 29(r)?

22 A That's our shower to the left, and to the right's a doorway
23 that goes to our toilet.

24 Q Who lived in this home with you?

25 A Just Heather and I.

1 Q Anyone else?

2 A No.

3 Q When did Ms. Beard move into the house?

4 A In March with me.

5 Q March of what year?

6 A 2016.

7 Q Who else had a key to the house?

8 A Nobody. We had went on a little vacation, and we had some
9 friends living next door. We let them have a key to it for a
10 few days, but that was it.

11 Q Did any people such as those stay temporarily at your
12 house?

13 A Another friend stayed one or two nights helping me with
14 some plumbing, putting a new sink, but that was it.

15 Q When was the last time you remember a guest staying at your
16 house?

17 A End of June, August.

18 Q And that's 2016?

19 A Yes.

20 Q And when people stayed at your house, where did they sleep?

21 A On the couch.

22 Q Let me ask you about your relationship with Ms. Beard.

23 When did you and Heather Beard meet?

24 A We met -- we met at the end of December of 2015.

25 Q In 2015?

1 A Yes, ma'am.

2 Q And what was her name at that time?

3 A Heather Elizabeth Wright.

4 Q And tell the jury about your relationship with Ms. Beard
5 before you married her.

6 A We actually started dating in January, and it was -- kind
7 of moved quick. We had moved in with her family -- her cousin
8 in Flowers, Mississippi. We lived there for a while and then
9 we split up. And a friend of mine has a house in Vicksburg. I
10 was staying there. She moved in with me, and we decided to
11 remodel the apartment in one of my buildings because I actually
12 lived in other one. We remodeled and started. We had a friend
13 of ours doing it. We were paying him. And we moved in March,
14 and we continued -- she did a lot of the work.

15 Q And when you say you remodeled the apartment, you mean
16 4645 Van Winkle Park Drive?

17 A Yes, ma'am.

18 Q The one that we just saw photographs of?

19 A Yes, ma'am. The ones you were showing the pictures.

20 Q When did you and Ms. Beard marry?

21 A We married I believe it was September.

22 Q Of 2016?

23 A 2016, the beginning of September.

24 Q Did you marry Ms. Beard because you love her?

25 A Yes, I did.

1 Q Besides love, is there another reason that you married her
2 when you married her?

3 A There it was for a reason, yes. We knew at the time
4 because before I met Heather, I had caught a state case. And I
5 knew I was going to plea bargain it. I was going to go to the
6 state facility. So we knew we could not visit because her
7 history and my history we couldn't visit each other without
8 being married so that was one of the reasons. Plus I wanted to
9 take care of her, let her live in my house and stuff while I
10 was gone because I thought I would be coming home in October.

11 Q Did you have illegal drugs and drug paraphernalia in your
12 house --

13 A Yes, I did. I did.

14 Q -- at 4645 Van Winkle Park Drive?

15 A Yes, I did.

16 Q Did you actually use meth at that time?

17 A Yes.

18 Q Methamphetamine?

19 A Yes.

20 Q Did you have ammunition in your house at 4645 Van Winkle
21 Park Drive?

22 A Yes.

23 Q Did you have guns in your house at that address?

24 A Yes.

25 Q What guns were in your house on December 2, 2016?

1 A In the gun cabinet there was a .22 rifle, Winchester rifle.
2 And in the bedroom there was a .22 pistol, a Taurus .22 pistol.

3 Q So those two guns use the same ammunition?

4 A Ma'am?

5 Q So are you saying those two guns use the same ammunition?

6 A Yes, ma'am, they do.

7 Q How did you come to possess the rifle?

8 A I had bought a vehicle from a friend, and in the -- it was
9 a Jeep. There was no top. It was all covered in leather -- I
10 mean leaves. And when I was cleaning it out, I found the
11 rifle. It was all rusted up and everything. I even called the
12 guy and asked him did he want it back. He said he didn't know
13 it was in there. We just kind of just threw it in the shop.
14 He kind of moved around. And when we were packing my closet
15 up, either Heather or I put it in the closet.

16 MS. CASE: Your Honor, may I approach and retrieve
17 Government's Exhibit 3?

18 THE COURT: Yes.

19 BY MS. CASE:

20 Q Mr. Beard, I'm holding Government's Exhibit 3. Do you
21 recognize this?

22 A Yes, that's the .22 rifle.

23 Q Is this the one you were talking about?

24 A Yes, ma'am, that is it.

25 Q I have placed on the screen a photograph, Government's

1 Exhibit 37(a). Do you recognize that?

2 A Yes. That's the interior of my gun cabinet.

3 Q What's shown inside the gun cabinet?

4 A To the left is that .22 Winchester. Beside it is Heather

5 and I's -- the pellet rifles are called Gamo pellet rifles.

6 They are for plinking, and there's some arrows that go to my

7 bows.

8 Q How did you say the rifle got placed in that gun safe?

9 A Like I said, it was in the shed. When we were packing this

10 closet up, either Heather or I, one of us put it in there. I

11 don't know exactly which one put it in there.

12 Q Who -- did both of you know that the gun was in the house?

13 A Absolutely.

14 Q Who had a key to that gun safe?

15 A It wouldn't lock. There's no lock. When I got it from my

16 buddy, he didn't have the key, and I took the top lock out to

17 get the key. It had never been fixed. It didn't --

18 Q Okay. How about the closet that the gun safe was in? Who

19 had the key to that?

20 A We both did. For a while, it didn't even have a lock on

21 it.

22 Q So before the rifle was put here, where was it in your

23 house?

24 A In the garage area. We had the garage area that I did work

25 out of.

1 Q Was there a case that it was in?

2 A No. It was laying on back of a four-wheeler -- of the
3 four-wheeler, or was laying on the rack, just laying around up
4 in a corner, stuck in a corner. It looks a lot better now than
5 it did when I had it. You can see in the pictures it was all
6 rusted and everything.

7 Q Now, you mentioned some other items in this gun safe. I'm
8 going to circle two black guns that are in the -- near the
9 center of that photograph. What are those?

10 A Those are Gamo whispers, air rifles, single shot pellet air
11 rifles.

12 Q Whose rifles are those?

13 A The left one is Heather's, and the right one is mine.

14 Q How do you know whose is whose?

15 A The yellow dot on the bottom. You can tell by the scope.
16 I put a better scope on mine.

17 Q Why did you have those two guns?

18 A We shoot at different targets. We used to live in Flowers
19 in the woods, and at the lake house we'd shoot turtles in the
20 lake. We did plinking, shoot at metal targets or paper
21 targets.

22 Q I'm going to show you Government's 29(g) again, and I'm
23 going to circle some objects in the center of that photograph
24 and ask you what those are.

25 A The paper targets laying across the top right there with

1 circles on them, and then right below it is a plinking target.
2 That's in the box. You shoot it. It makes a plinking noise,
3 and it flips over and resets.

4 Q You're talking about small little BB type --

5 A Uh-huh.

6 Q -- objects?

7 A Little pellets, like air rifle pellets you give your kids.

8 Q And who all shot the two air guns that we saw in the
9 previous photograph?

10 A We both shot each of ours. Heather shot hers, and I shot
11 mine.

12 Q I'm going to leave 29(g) on the screen for a minute and
13 circle the gun safe that we saw earlier and ask you where the
14 lock is on that gun safe.

15 A Right there in the center of that you can see the lock is
16 missing. There's a hole where the lock used to go.

17 Q So the cabinet cannot be locked?

18 A No, it could not. There's a lock assembly sitting in my
19 bedroom.

20 Q I'm going to show you some more photographs of -- that are
21 related in the closet where these items are, and I'd ask you to
22 tell the jury what you see on 37(b).

23 A That is a shelf inside my closet and a little metal box
24 that's got clips for pistols in it.

25 Q Let me show you 37(c) and ask what you that is.

1 A That's inside that box. That's different clips for
2 pistols.

3 Q Are those -- do those clips have ammunition in them?

4 A Some of them do. I can see that the top one there has
5 rounds in it.

6 Q Can you circle that for us?

7 A Yes. (Witness Complied with Request).

8 Q How about 37(d)? What's here?

9 A That is the top of my gun case, and that's four shotgun
10 shells sitting on top of it.

11 Q There?

12 A Yes, ma'am, and right there, yes, ma'am.

13 Q What do we see in 37(e)?

14 A It's some kind of container with a bullet in the bottom of
15 it. I believe it was in my closet. I'm not sure.

16 Q How about 37(f)?

17 A That I believe was on top of my gun cabinet. There's a
18 bullet sitting there and the pellets for the air rifles and a
19 little flashlight.

20 Q The pellets are in the tin can in the middle of the screen?

21 A They are in the silver container. That's the pellets.
22 There's one right there beside the bullet. Right there on the
23 bottom left, that's one of the pellets that go in the pellet
24 gun.

25 Q Were you allowed to possess the gun such as the .22 caliber

1 rifle that was in that gun safe?

2 A No. When I received the gun or got it out of the vehicle,
3 I was under the understanding it was a hunting safety course
4 rifle and did not fire. I found out that the agents had fired
5 the gun. It does fire. I was not allowed to have it.

6 Q Why were you not allowed to that have rifle?

7 A Because I have a felony on my record.

8 Q Did Heather Wright-Beard, your wife, also have a felony
9 conviction before December 2016?

10 A Yes, she does.

11 Q Did your status as convicted felons prevent either of you
12 from possessing the air guns that we talked about?

13 A No, it does not.

14 Q Why not?

15 A Because anybody can buy them. You go into Walmart,
16 children can buy them.

17 Q And you said you were arrested at your house on December 2,
18 2016. Right?

19 A Yes, ma'am.

20 Q What time of day were you arrested?

21 A It was around 6, 6:30. It was early in the morning.

22 Q And why were you arrested?

23 A Because I had a state charge that I was supposed to go to
24 my sentencing on October 31st, and I did not go. And they
25 issued a warrant for my arrest for failure to appear, and the

1 U.S. marshals came and got me.

2 Q Tell the -- what charge led to that?

3 A Rankin County called it home invasion. MDOC calls it
4 residential burglary.

5 Q Tell the jury what you did that led up to that home
6 invasion charge.

7 A Before I met Heather, I had another young lady living with
8 me. She had ran off with my vehicle, my Yukon, some laptops
9 and jewelry and stuff like that, and disappeared with another
10 guy. And I found out where she was a week later, and me and an
11 employee of mine went there to get my stuff back. And my
12 employee ran inside the house and threatened somebody in the
13 house. We left. They called the police. I got pulled over;
14 he did not. I got pulled over, and I took the charge.

15 Q You say your Yukon. How did you get -- how did you come to
16 possess the Yukon?

17 A My dad died in 2013; my mom unfortunately in '15. I
18 inherited when she passed away. The rings the girl had stolen
19 I inherited from my dad.

20 Q I'm going to return your attention to Government's 28(b)
21 and ask you again what this is.

22 A That's pictures in front of the building. That's Heather's
23 Firebird I had bought her, and that's my Yukon to the right.

24 Q The vehicle on the right of the photo is the Yukon?

25 A Is the Yukon.

1 Q When was that photograph taken?
2 A I guess December 2nd, yes.
3 Q You had that vehicle on December 2nd, 2016?
4 A Yes, I did. I think I still do.
5 Q So you were able to keep the Yukon that was the subject of
6 your home invasion charge?
7 A Right. The gentleman that was driving it that night was
8 not pulled over, or I never mentioned him in the case or
9 nothing.
10 Q So, nevertheless, did you plead guilty to the home invasion
11 charge?
12 A Yes, I did.
13 Q Were you sentenced for that crime?
14 A I was sentenced to five years.
15 Q Now, you said you were arrested on December 2, 2016,
16 because you did not appear for your sentencing hearing.
17 A Right. I was originally arrested October 10th of 2015, I
18 believe.
19 Q Well, the arrest that brings us here today --
20 A The arrest that brings us here today is December 2nd.
21 Q And can you tell us the sequence of events that led up to
22 you not appearing at your sentencing hearing?
23 A We were supposed to go to sentencing on October 1st. We
24 had prepared everything, and then all of the sudden we got a
25 call from my lawyer. He was going to put it off a week. Then

1 we were supposed to go October 8th, and then we got a call
2 about three days before that, that the judge had something to
3 do for two weeks. So we were going to do it like the 16th or
4 something of October, two weeks later that Monday -- it was
5 October 31st.

6 October 31st that morning, we had got up, and we had been
7 in a big fight about three or four days. We busted the windows
8 out of our vehicles, front windshield, side windshield, stuff
9 like that. And me and Heather got in an argument, and she said
10 she wasn't going to drive me to my sentencing or go with me to
11 my sentencing so I just didn't go.

12 Q So you just didn't show up for your sentencing?

13 A I did not show up for my sentencing.

14 Q When did you plead guilty for that home invasion charge?
15 Do you remember?

16 A I believe it was in July -- it was June or July of 2016.

17 Q In the summer of 2016?

18 A Yes, ma'am.

19 Q And at the time you pled guilty or around that time, what
20 length of sentence did you expect to receive?

21 A Five years.

22 Q On the home invasion charge?

23 A Home invasion charge yes, ma'am.

24 Q How much of that sentence did you expect to serve in
25 prison?

1 A About two and a half years. I had to do 50 percent of it
2 in the state of Mississippi.

3 Q And when was your original sentencing hearing set for the
4 home invasion charge? What date?

5 A It started -- it was supposed to have been October 1st.

6 Q Okay.

7 A Then it got moved to the 8th and then to the 31st.

8 Q So first time was October 1st 2016?

9 A When I was supposed to go, yes, ma'am.

10 Q And in relation to that, when did you and Ms. Beard get
11 married?

12 A Three weeks before that.

13 Q Did Ms. Beard know that you were headed to prison before
14 the two of you decided to get married?

15 A Yes, she did.

16 Q And what arrangements did you make in anticipation of the
17 year or two that you expected to be in prison?

18 A We had had some problems with the taxes on the building.
19 So we lost one of the buildings to taxes, and I sold a bunch of
20 my stuff so we could come up with the money. And Heather had
21 talked to the tax people and got it as low as we could. The
22 gentleman we were buying it from did not buy the taxes. We got
23 the taxes paid off and we were selling things. I had bought
24 her a dog for protection. I had bought her the pistol for
25 protection. We live in a bad neighborhood.

1 Q And is one of the things that you did in anticipation of
2 going to prison to marry Ms. Beard?

3 A Yes, it was part of it.

4 Q Was there any -- why did you and Ms. Beard marry knowing
5 that were you going to prison?

6 A Because I love my wife. We were in love at the time. And,
7 you know, I was hoping she could be able to visit me and, you
8 know, stand by me while I was in prison, you know, and take
9 care of me, help me out.

10 Q Was there any financial benefit that occurred as a result
11 of that marriage?

12 A For her, yes; not for me.

13 Q What would it have been for Ms. Beard?

14 A She was getting rent off of one of my buildings, and my
15 nephew at the time was paying me for buying my parents' house
16 from me, and he was paying me 500 a month, and I was giving her
17 300 and I was taking 200 of it so I would have canteen in
18 prison. My nephew was mailing her 3 and me 2.

19 Q And that was -- the spousal relationship provided that
20 benefit?

21 A Yes.

22 Q You said you were renting a property. Can you explain
23 that?

24 A Yes. My original building -- the first one I bought that's
25 next door to the left, she was renting it to -- it was a guy

1 that worked at a shop right there on our street, him and his
2 girlfriend were living in that building because I had an
3 apartment built in it originally. I've had that building since
4 '09.

5 Q All right. Did you have items in that building before you
6 rented it out?

7 A We moved everything out so we could rent it out, yes,
8 ma'am. We had -- I had my race car in there and some other
9 stuff.

10 Q And where did that rent money -- who received that rent
11 money?

12 A She did.

13 Q And you mentioned some things you did for physical
14 security. Did you install anything in the house for security?

15 A Installed security cameras and a DVR. Like I said, I
16 bought a pit bull, you know, and I bought her the pistol.

17 Q So you mentioned that you bought a pistol. Why did you buy
18 a gun?

19 A Because on the back -- behind our building is a
20 neighborhood street, Dixie Avenue, in South Jackson. That's a
21 rough neighborhood. It has a lot of gang violence, gunfire and
22 stuff. On the holidays, they don't shoot fireworks. They
23 shoot guns. So I mean, it's -- she needs it for protection.
24 We've had numerous people break in or people attempting to
25 break in breaking into vehicles there. The shops all up and

1 down the street are always getting broke into.

2 Q Who would have been living in the home with Ms. Beard after
3 you went to prison?

4 A Was not supposed to be anybody.

5 Q Did you buy the gun before or after you and Ms. Beard
6 married?

7 A It was before.

8 Q Do you know approximately when you bought the gun?

9 A Yeah, it was June, July, in the summer. We had been at a
10 soccer game that day in Madison or Ridgeland.

11 Q Was it -- do you know in relation to your marriage how far
12 in advance of your marriage it would have been?

13 A About a month and a half.

14 Q Can you tell the jury how you bought the gun?

15 A I had been putting feelers out for small caliber action. I
16 wanted a little 25 automatic, and a friend of mine had called
17 me and told me he had that .22 pistol. And we had met at Sonic
18 on Highway 51 in Ridgeland, and I purchased it right there in
19 the parking lot of the Sonic while we were eating.

20 Q Who was with you when you bought the gun?

21 A It was Heather and I and Heather's daughter, Hope.

22 Q Who did you buy the gun from?

23 A Guy's name is Ian. I don't know his last name. He lives
24 over in south Jackson. He's somebody I had done business with
25 and met before and stuff.

1 Q What type of gun did you say you asked for?

2 A I was asking for a small caliber pistol, just something

3 small for her.

4 Q And what did you actually buy?

5 A I bought a 9 shot .22 Taurus Ultra-Lite.

6 Q You said .22 Taurus?

7 A Yes, ma'am, Taurus.22 Ultra-Lite, a nine shot.

8 Q What does .22 refer to?

9 A .22 caliber.

10 Q How much did you pay for the gun?

11 A I paid 160.

12 Q When you bought this gun from Ian, who did Ian give the gun

13 to?

14 A He walked up to the passenger side window. We were talking

15 through the passenger window. We were at Sonic. He couldn't

16 come to my window because the ordering thing is right there.

17 And he -- Heather rolled down the window, and we was talking to

18 him and he passed it through the window to me. Heather handed

19 it to me through the window.

20 Q What, if anything, did Ms. Beard say when you all received

21 the gun?

22 A I looked at it first, and then, you know, handed it back to

23 her. And she looked at it, and I said, *Is this what you want?*

24 And she said, Yeah. I handed her the money, and she handed it

25 to Ian.

1 Q So you -- you said Ian got his money how?

2 A I pulled it out of my pocket, counted it, Heather was right

3 there beside me in the front seat. I handed it to her and she

4 handed it to Ian.

5 Q Okay. Why didn't you just go to a store that sells a gun

6 and buy this gun?

7 A Why did I --

8 Q Why did you not go to a store to buy this gun?

9 A I was a felon. I can't go buy a gun.

10 Q Who had control of the gun after you bought it?

11 A I gave it to her. It was her gun.

12 Q When you say "her" who is that?

13 A Heather's.

14 Q Where did Ms. Beard keep the revolver?

15 A It varied between her purse and the nightstand. She'd have

16 it somewhere in the bedroom over by her nightstand.

17 Q Could you have used that gun if you wanted to?

18 A I could have probably found it and used it, yes.

19 Q Did you ever?

20 A I did grab it one day. We were in a bad argument, and I

21 grabbed it and put to it my head and was going to try and

22 commit suicide. And me and her tussled over the gun, and I

23 took it and threw it. A window in our bedroom is busted

24 because I threw it and busted that window.

25 Q Did you ever see Ms. Beard with the revolver after she had

1 it at the Sonic?

2 A Yes, numerous times.

3 Q Tell us about what you remember.

4 A One of them I was standing in my shop area. She opens the
5 door, puts it in my face, pulled the trigger three times and
6 said -- started off walking and said, *It's just that easy.* The
7 gun was empty. She put it my face and pulled the trigger three
8 times.

9 Then on one night we seen somebody in the cameras at the
10 back of the building. We figured it was the kid from the
11 building behind us -- the house behind us. I went out through
12 the garage area going to holler and grab him. All of the
13 sudden behind me I hear two gunshots. I turn around at the
14 fence, and there's Heather hollering, *The next time I'm going*
15 *to shoot you in your ass.* She discharged a gun in the air
16 twice.

17 Q That time that the gun was -- that Ms. Beard discharged the
18 gun, was that before or after you married?

19 A I believe it was -- I believe it was after we were married.

20 Q Can't be sure?

21 A I'm not exactly sure the date.

22 Q And the time that she unloaded it and pulled the trigger in
23 your direction, was that before or after you married?

24 A I believe that was after we married.

25 Q What did you do after she pointed the revolver at you and

1 pulled the trigger?

2 A I got the pistol, and a friend of mine had come by that day
3 or the next day, and I gave it to him to keep -- get it out of
4 the house. I said, *Don't give it back to her until I go to*
5 *prison.* But apparently he gave it back to her. I later found
6 out that she was seeing my friend's twin brother. They were
7 seeing each other before I went to prison.

8 Q When you say you took the revolver and gave it to another
9 person to keep --

10 A A gentleman named Todd Bates.

11 Q What instruction did he have?

12 A Do not give it back to her until after I go to prison.

13 Q So you intended for her to have the gun again?

14 A Yes. It was bought for her for protection for while I was
15 in prison.

16 Q After you handed the gun to your friend, when is the next
17 time you remember seeing it?

18 A When y'all showed me pictures of it a few weeks ago.

19 Q Y'all --

20 A The prosecutor.

21 Q The government?

22 A The government.

23 Q Did you know that the revolver was back in your house?

24 A No, I did not.

25 MS. CASE: Your Honor, may I approach and pick up

1 Exhibit 4?

2 THE COURT: Yes.

3 BY MS. CASE:

4 Q Mr. Beard, I'm showing you what's been admitted as
5 Government's Exhibit 4, and I'll ask if you can recognize that.

6 A Yes, that's the Taurus .22 Heather liked that I bought,
7 that I purchased for Heather.

8 Q This is the gun we've been talking about?

9 A Yes, ma'am, that's it.

10 Q This is the gun that you bought for Ms. Beard before you
11 went to jail?

12 A Yes, ma'am, that is it.

13 Q If we can, I'd like to go through some more photographs of
14 the home. I'm going to start with Exhibits 31(a) and(b) and
15 ask you what is shown here on 31(a), specifically in this sort
16 of center of the table?

17 A That is a laptop -- not a laptop. A tablet that was
18 Heather and I's -- Heather and mine.

19 Q If we look at --

20 A That's our laptop -- I mean, our tablet. It says
21 Heather -- David and Heather Beard.

22 Q So that's Government's 31(b). Is that a shared laptop?

23 A Yes.

24 Q Shared iPad, excuse me. If we can look at Government's
25 Exhibit 30(a) and I ask you what is on this photograph?

1 A As you enter our living room, that's a table that's right
2 against the wall. That's right before the closet, Heather's
3 closet.

4 Q What is shown on that table to the left of the stack of
5 DVDs?

6 A That's a .22 bullet.

7 Q Can you draw a circle around that for us.

8 A (Witness complied with request.)

9 Q And I'll show you -- I'll show you Government's 30(b) and
10 ask you what that is.

11 A That is a .22 caliber bullet.

12 Q Is that a close-up of the bullet we just saw?

13 A Yes, ma'am.

14 Q Does that bullet fit either of the two guns that was in
15 your house?

16 A Fits both.

17 Q And what's that bullet on that table in your living room on
18 the day you were arrested?

19 A I'm not sure. I don't know. Apparently it was. I
20 don't -- I don't remember it being there.

21 Q I'm going to return your attention to Government's Exhibit
22 29(m). Tell us again what room this is.

23 A That is standing at the foot of our bed taking the picture.
24 That's our bedroom.

25 Q You say "our." Whose bedroom?

1 A That's Heathers and mine.

2 Q How many beds were in the house?

3 A Just one.

4 Q And if you're at the foot of the bed and looking at the

5 bed, which side of the bed did you sleep on?

6 A I slept on the right.

7 Q What side did your wife sleep on?

8 A Ma'am?

9 Q What side did your wife sleep on?

10 A She slept on the left.

11 Q Who was the primary user of the shelves on the right side

12 of the bed?

13 A That is mine.

14 Q I'm going to show you some photographs from that side of

15 the bedroom and ask if you can tell the jury what we see. And

16 the first thing I'm going ask you to do is compare two

17 photographs. The first is 33(a). And if you would, start by

18 looking at the plastic shelves at the top.

19 A Yes.

20 Q I'm going to change the photograph to 33(b) --

21 A Okay.

22 Q -- and ask that you look at those shelves again. So

23 comparing Government's 33(a) and(b), have items been moved

24 around?

25 A Yes, they have. To the left of the plastic case is some

1 scales. They were down in the lower shelf. On the second
2 shelf there's another set of scales with a baggie on it. They
3 were in another place. The plastic thing on the top, you can
4 tell the drawers were opened. My cigarettes and stuff aren't
5 there on top but the scales are now. It was cigarettes in the
6 other photo.

7 Q Are the cigarettes still there?

8 A Cigarettes are at the bottom now next to the last shelf by
9 the locks that went to the gun cabinet.

10 Q Is it fair to say that the items on these shelves are in
11 the same general area in the bedroom that they would have been
12 when were you arrested?

13 A Yes. They were on my side.

14 Q So I'm going to ask you about a couple of items in this
15 area. What is shown on the top shelf on the left side?

16 A That is a set of scales.

17 Q This is the top left-hand corner?

18 A Yes, ma'am. That's them.

19 Q What is shown -- I'm going to circle the middle of the next
20 shelf. What is shown there?

21 A There's another set of scales with a bag sitting on it, and
22 on the ashtray is a syringe with methamphetamine in it.

23 Q What's the black bottle?

24 A That's Bod body spray.

25 Q Whose is that?

1 A Me. That's mine.

2 Q Whose are the other objects we've circled so far? Are the

3 other objects --

4 A Mine also.

5 Q -- yours also?

6 A Mine, yes.

7 Q How about the cigarettes on this shelf?

8 A That's mine. I smoke Marlboro Light in the soft pack.

9 Heather smokes a hard pack, the box.

10 Q On the very top of this shelf there's a wallet. Whose

11 wallet is that?

12 A That's my wallet, and that's my money and pocket knives and

13 stuff in that top drawer.

14 Q That's 33(c). On 33(d), that's --

15 A That's my identification card and my driver's license.

16 Q From the wallet that --

17 A From the wallet.

18 Q It came out of the wallet?

19 A Yes, they were in my wallet.

20 Q 33(d) is a close-up of some of what we've seen, and I'm

21 going to circle what's on the shelf between the Santa cup and

22 the Bod spray and ask you what that is.

23 A That's a set of scales, plastic baggie and a syringe with

24 methamphetamine in it.

25 Q You said those are yours.

1 A They are mine.

2 Q How about in 33(g)? What do we see towards the right of
3 that photograph?

4 A That's close-up of the scales, baggie and the syringe.

5 Q What's on the scale?

6 A A baggie with apparently some kind of white powder in it.

7 Methamphetamine probably.

8 Q What's to the right of 33(h)?

9 A Another set of scales, a remote, and some of my car keys.

10 Q How about what's in 33(i)?

11 A That's a pair of scales that were up on top of it.

12 Q And 33(j), what are those plastic bags in the center used
13 for?

14 A Empty -- they are empty methamphetamine bags from where I
15 had purchased methamphetamine.

16 Q And what is in the corner of the bin above the Energizer
17 battery?

18 A A .22 caliber bullet.

19 Q Did I circle it?

20 A Yes, ma'am, that's it.

21 Q These items on the piece of furniture, those are your
22 items?

23 A Yes, ma'am, they are.

24 Q I'm going to continue with some photos around the bedroom
25 and ask you where we are in the bedroom in this photograph.

1 A That is the cedar chest at the foot of our bed.

2 Q What's in -- that was 35(a). What's in 35(b)?

3 A That appears to be Heather's driver's license and one of my

4 old phones.

5 Q What about 35(c)?

6 A That's Heather's driver's license.

7 Q What's in 35(d)?

8 A That is a pair of laptops I had bought us. One was hers,

9 and one was mine.

10 Q And what furniture is in the bedroom in the opposite side

11 of the bed?

12 A That's a dresser in the back that we both use. And then

13 there's like a clothes rack that we both use hanging -- our

14 clothes are hanging to the right. All the bins on the floor

15 are Heather's stuff, and there's a dog kennel with our dog in

16 it.

17 Q Can you show us the bins that you're talking about that

18 Ms. Beard used?

19 A (Witness complied with request.)

20 Q And the clothing rack that you all used?

21 A (Witness complied with request.)

22 Q Where generally on the dresser is Ms. Beard's --

23 Ms. Beard's effects?

24 A All this is her stuff.

25 Q So you've circled --

1 A I circled her.

2 Q -- things on the right side of the photograph?

3 A Ma'am?

4 Q You've circled things on the right side of the photograph?

5 A Yes. Things on the right side is hers.

6 Q And is the right side on the left side of the photograph
7 where the door to the bedroom is?

8 A To the right. It's right here about where the bin is, the
9 bottom where the doorway's right there. You come in and that
10 will all be to your right.

11 Q Okay. So that was Government's Exhibit 29(n). You circled
12 a few things on Government's 29(n) for where you wife kept her
13 belongings. Are there any other places that she kept her
14 clothes in the house?

15 A Her closet and in our bedroom and that was about it.
16 Sometime it would be back in the laundry room. After she'd
17 wash and dry them she may hang them up there.

18 Q I'm going to show you Government's 18(a) again, the floor
19 plan. I'm going to ask -- you said her closet. If you could
20 explain where Ms. Beard's closet is.

21 A It's right here outside of our bedroom.

22 Q And the bins of clothing that you highlighted on 29(n),
23 where are those?

24 A Those are right here on this side of the doorway. We hang
25 clothes, and there's a bin right there inside that doorway, and

1 that's the dresser there beside it.

2 Q And can you show us which side of the bed would have been
3 Ms. Beard's?

4 A Where I sleep?

5 Q Where your wife slept.

6 A Right here.

7 Q I'm going to show you Government's 32(a) and ask you what
8 is shown.

9 A That's Heather's closet, the doorway to her closet.

10 Q Whose items do you see in the closet in this photograph?

11 A That's all Heather's clothes.

12 Q I'm going to ask you what you see in Government's 32(b).

13 A On the top shelf is a bunch of swimming pool stuff we
14 bought at Dollar General on sale. Her parents have a pool at
15 their house. On the second shelf is a little stereo thing and
16 a box that she had and tennis shoes and more of her shoes.

17 Q So whose items do we see in this photograph?

18 A They are all Heathers.

19 Q I'm going to ask you what is shown in the center of the
20 photograph.

21 A There's a black box that she had bought at Walmart to keep
22 stuff in.

23 Q Can you circle that for us?

24 A Sure.

25 Q Is that your box?

1 A No, it's not mine.

2 Q I'm going to show you Government's 32(c). What is that?

3 A That's .22 rounds, .22 caliber rounds.

4 Q Is this the inside of the box you just --

5 A Yes, ma'am.

6 Q -- circled?

7 A Yes, ma'am. It looks like it.

8 Q What guns in your house did those bullets match?

9 A Both, the .22 rifle and the .22 pistol.

10 Q What else is in the box with the bullets?

11 A Appears to be ink pens.

12 Q Did you know that the .22 caliber bullets were in this box?

13 A No, I did not.

14 Q Did you put them in the box?

15 A I did not. The last I seen them they were in a cardboard
16 box in that black tool box.

17 Q Did you put those bullets or that box in this closet?

18 A No, I did not.

19 Q Did you know they were in this closet?

20 A No, I did not.

21 Q When did you learn that those bullets were in this closet?

22 A Two weeks ago when the government showed me the picture.

23 Q I'm showing you Government's 29(m) again, and I'd like to
24 direct your attention to what you've -- what we've referred to
25 as your wife's side of the bed. Who was the primary user of

1 the things along the left-hand side of this photograph?

2 A That's her mirror, blow dryer, hair straightener, curling
3 iron. Everything on that left side's hers.

4 Q What's on the top of the bed where a person's head would
5 be?

6 A Top of it looks like her purse.

7 Q Whose hats are on the wall above that purse?

8 A Only the left side is her hats, and then there's an -- the
9 Under Armour on the right side is mine.

10 Q Whose slippers are on the right side of the bed by the --

11 A Them are mine. They're moccasins.

12 Q Do you see the pink stickers and the flower stickers that
13 are on the wall?

14 A Yes, I do.

15 Q And do they -- you see the stickers that say "me" and
16 "you"?

17 A Right there above each side of our bed it says -- on the
18 left-side says "me" and on the right side it says "you."

19 Q Who does "me" refer to?

20 A Heather.

21 Q Who put those stickers up?

22 A She purchased the stickers at Walmart and put them up.

23 Q She put them up?

24 A Uh-huh.

25 Q You see the -- do you see an end table to the left side of

1 the bed?

2 A Yes, I do.

3 Q Can you circle that area of the screen for us?

4 A (Witness complied with request.)

5 Q And in the center of the circle that you just made, you see
6 a blue fan?

7 A Yes, I see the blue fan.

8 Q What's on that blue fan?

9 A Stickers and paintings that she does. It says "Heather" on
10 one side of it, I believe.

11 Q And on the floor on the left side of the bed, I'm going to
12 circle an object and ask you what it is.

13 A Heather's phone.

14 Q Is the mirror on this left side of the wall in that bedroom
15 propped up against the wall?

16 A Yes, it is. It's one we got from her mother. We were
17 going to mount it on the wall, and it got broke in the fight I
18 was talking about where I tried to commit suicide.

19 Q If we look at Government's Exhibit 34(g), tell us what we
20 see here.

21 A Heather's nightstand with her fan on it. Says "Heather"
22 beside it and lotions and lamp and appears to be medicine
23 bottles and a clear zip-up case she's got on the floor.

24 Q Can you just using the monitor show us where the bed is to
25 make sure the jury is oriented?

1 A Right here on the floor.

2 Q The nightstand we were discussing.

3 A Nightstand, and this is a .22 bullet on the corner there.

4 Q And is the fan that we were discussing --

5 A Yes, that's the fan. That's Heather's fan. It's got her
6 name on it.

7 Q Are there objects stored in this nightstand?

8 A Do what, ma'am?

9 Q Are there objects stored --

10 A The little make-up case that she had with her make-up in
11 it.

12 Q What color objects are stored inside that nightstand?

13 A There's like a red, pink, and blue. There were little like
14 zip-up cases that contain her make-up.

15 Q I have circled the center bottom of the photograph. What's
16 in that general area?

17 A That's a clear bag that we kept my medicine, her medicines,
18 Tylenol, sinus medicine, over-the-counter stuff or prescription
19 stuff, kept it in that clear bag.

20 Q Who maintained the medicines for your household?

21 A Ma'am?

22 Q Who kept the medicines for your household?

23 A She did. She kept up with them, that side. If I needed
24 it, she give them to me. She usually make sure I take my
25 medicines.

1 Q I'm going to show you a slightly different view in
2 Government's 34(a) and ask you again to just show us where the
3 nightstand, the end table is.

4 A Right here.

5 Q You've drawn a circle towards the center top of the screen.
6 Can you show us the objects that are stored inside the end
7 table?

8 A Uh-huh. Right here, and here some on the bottom right
9 there.

10 Q And will you show us the bottles of medications that you
11 were talking about?

12 A (Witness complied with request.)

13 Q The left bottom corner of the screen has what in it?

14 A Has a black case.

15 Q Well, the left most bottom corner has what?

16 A That's the mirror that's broke, and right here's a black
17 case.

18 Q Do that one more time. Try that again.

19 A (Witness complied with request.)

20 Q Whose black bag is that?

21 A That's Heather's.

22 Q What's in that black bag?

23 A I do not know.

24 Q I'm going to show you Government's 34(b). What is that?

25 A That is the Taurus Ultra-Lite .22.

1 Q Is that the revolver we've been discussing?
2 A Yes. That's the one you had a minute ago.
3 Q What is this?
4 A That's the other side of the pistol.
5 Q That's 34(c). 34(e) shows what on the left-hand side of
6 this photograph?
7 A That's Heather's phone and some other items of hers on the
8 bed.
9 Q Is that the phone that we saw on the floor earlier?
10 A I believe so.
11 Q What's 34(f)?
12 A That's her phone.
13 Q 34(e) is a photograph of what?
14 A Somebody holding three pill bottles. I've seen this
15 picture clear. It's three of Heather's, and the two blue
16 bottles in there on the bottom are mine and then just different
17 over-the-counter medicines.
18 Q What's in 34(j)?
19 A Those are Heather's prescriptions.
20 Q And can you see an object faintly to the center right?
21 A Looks like the fan. I can see the name up the side. Yes,
22 blue fan that was on the nightstand.
23 Q I'm going to show you some photographs that have been
24 admitted of the garage or shop area of the house. And it
25 begins with Government's Exhibit 38(a). Do you recognize that?

1 A Yes. That's a black tool box that's in a little storage
2 shed we have outside the building.

3 Q What is 38(b) a photograph of?

4 A That's inside that box, and it's a different rounds of
5 ammo, shotgun shells, and stuff that I inherited from my dad.

6 Q How about 38(c)?

7 A That's a counter in my shop door open to a cabinet, and
8 that's a gun box -- ammo box rather.

9 Q And what is 38(d)?

10 A That's an ammo box and appears to be a clip beside it.

11 Q And how about 38(e)?

12 A That's the interior of an ammo box and different ammo.

13 Q And 38(f)?

14 A That's the back of my four-wheeler with the rack sitting on
15 it.

16 Q And what's in 38(g)?

17 A It's a cooler sitting on that rack that's on the back of my
18 four-wheeler.

19 Q And what is 38(h)?

20 A Shotgun shells inside of the cooler.

21 Q And how about 38(e)?

22 A That's a drawer in my cabinet in the shop.

23 Q And 38(j)?

24 A More shotgun shells and different ammo.

25 Q Do you recognize Government's Exhibit 27(a)?

1 A Unfortunately, I do. That was me at the time.

2 Q At the time of your arrest?

3 A The morning of my arrest, yes.

4 Q And what is government's 27(b)?

5 A That's Heather the morning of my arrest.

6 MS. CASE: Your Honor, at this time I would ask that
7 Mr. Beard be allowed to view the items on the evidence table.

8 THE COURT: Okay. Well, I tell you what, before we do
9 that, let's take -- let's take a short break here. It's 10:45.
10 I'm going to excuse the jury. Remember the instructions I've
11 been -- we're going to come back in about 15 minutes, 11:00.
12 If you'd leave your pads in your chair, you can be excused.

13 (Jury Out)

14 THE COURT: You wanted him to do what?

15 MS. CASE: I was going to ask that he stand here and
16 be able to look at these items and confirm that they came from
17 his residence.

18 THE COURT: All right. We'll do that when we come
19 back to court. We will be in recess. Mr. Beard, obviously
20 don't talk to anybody during the break. Court's in recess.

21 (Recess)

22 (Jury In)

23 THE COURT: You may proceed.

24 MS. CASE: Thank you, Your Honor. At this time, I
25 would ask that Mr. Beard be allowed to come down and look at

1 the items on the table which are -- have been admitted as
2 Government's Exhibit 5 through 15.

3 THE COURT: All right.

4 BY MS. CASE:

5 Q Mr. Beard, please look at these items and when you're
6 finished, if you'll just return to your seat. Just look at
7 them generally, see if you recognize them.

8 A I recognize all of them.

9 Q If you will please return to your seat. What are the items
10 marked Government's Exhibit 5 through 15?

11 A That is an ammunition and the boxes and stuff that I was
12 storing them in and kept them -- had in my shop and in my
13 house.

14 Q Are these items in substantially the same condition as you
15 had them in your house?

16 A Yes, ma'am, they are.

17 Q And were these items in your house on December 2, 2016?

18 A Yes, ma'am, I believe they all were.

19 Q I'm going to show you some photographs of these items, and
20 I'm going to ask if you recognize these, starting with
21 Government's Exhibit 39(a). I'm going to circle things on the
22 screen starting with the center of the screen and ask if you
23 recognize that and tell us what it is.

24 A Yes, sir. That is the Taurus .22.

25 Q What is the object in the middle?

1 A Winchester .22 rifle.

2 Q How about the top left-hand side of the screen that's

3 running out of the photo?

4 A That's the box with the .22 caliber bullets in it.

5 Q And the box beside that to the right?

6 A That was the one that was in my closet with all the clips

7 in it, the bullets.

8 Q How about in the top center, the red items?

9 A That, I believe, is 12 gauge shotgun shells.

10 Q And if you can see to the left center of the photograph.

11 A Appears to be a .22 bullet, .22 caliber bullet.

12 Q How about next to that?

13 A I believe that is too.

14 Q And what are the green and yellow items?

15 A I believe that is .20 gauge shells.

16 Q And can you tell in the lower right-hand portion that's

17 partially off the screen?

18 A It's rifle ammunition. I'm not sure what they fit.

19 Q And in the center bottom?

20 A I believe that's miscellaneous rams of .38, 9 millimeter.

21 I think there's a .40 caliber in there.

22 Q And how about the last item on the lower --

23 A 12 gauge shotgun shells.

24 Q And these items were in your house in December 2016?

25 A Yes, they were.

1 Q Government's 39(b). I won't circle all of them, but in
2 general what is on that photograph?

3 A That is all the different rounds that were found in that
4 black tool box that was in a plastic shed I have outside my
5 shop.

6 Q And how about Government's 39(c)?

7 A That's -- I believe that's the ammo that was inside that
8 metal container, that ammo box.

9 Q And the last two photographs had yellow sticky notes on the
10 items. Did you have those yellow post-it notes?

11 A No, I did not.

12 Q Those were added after they were taken from your house?

13 A Yes, they were. Added by somebody else, yes.

14 Q After the search was executed at your house, did the grand
15 jury charge you with illegally possessing a firearm?

16 A They did on November 37th.

17 Q When did you first appear in court for that charge?

18 A December 13th or 14th, I believe.

19 Q Of 2017?

20 A Yes, ma'am.

21 Q This year -- or last year. When did you let the court know
22 that you wanted to plead guilty to that charge?

23 A I let my lawyer know shortly after that that I wanted to
24 plead out.

25 Q Do you remember when you actually pled guilty?

1 A No, I do not. I've got it on a calendar but --

2 Q Would it have been this year?

3 A Yes. Yes, it was this year, 2018.

4 Q And in general terms, what did you admit at your guilty
5 plea?

6 A That I owned and possessed guns and ammunition at the time
7 of my arrest.

8 Q So you've taken responsibility for what you possessed?

9 A Yes, I have.

10 Q When did the government let your lawyer know that we would
11 seek your truthful testimony in this case?

12 A About a month ago, I believe. It was three weeks ago.

13 Q Was that several months after you pled guilty?

14 A Yes, it was.

15 Q Did you pleaded guilty knowing that you would likely go to
16 prison?

17 A Yes, I did.

18 Q Had anyone -- has anyone made you any promises regarding
19 what will happen if you testify here today?

20 A No, they have not.

21 Q Are you required to testify as part of your plea agreement?

22 A No, I'm not.

23 Q In fact, have you received a subpoena that required you to
24 come here today?

25 A I received one a couple of days ago.

1 Q Does your plea agreement guarantee you a benefit if you do
2 testify?

3 A No, it does not.

4 Q Do you hope to get a benefit by testifying?

5 A I do.

6 Q Who determines what your sentence will be?

7 A My judge.

8 Q Have you and Ms. Beard spoken since you were arrested in
9 December 2016?

10 A Yes, we have.

11 Q What, if anything, did Ms. Beard tell you about what she
12 told the agents who searched your home?

13 A She told me that she told them where the gun was.

14 Q Have you and I met before?

15 A Just here in the last week.

16 Q How many times have we met before?

17 A Twice.

18 Q Was that before or after you were indicted?

19 A Way after.

20 Q Was that before or after you pled guilty?

21 A Way after I pled guilty.

22 Q Was that before or after you learned that your wife would
23 have this trial?

24 A After I found out she was having the trial.

25 Q Why did we meet?

1 A My lawyer approached me and asked me would I testify here
2 today. And at first I told her a couple times no, and then I
3 decided I would because of some other information that
4 appeared.

5 Q What instructions did I give in terms of your testimony?

6 A Tell the truth.

7 Q Is that what you've done?

8 A Yes, ma'am, I have.

9 Q Have you and your wife spoken since you were arrested in
10 December 2016?

11 A Yes, we spoke numerous times on the phone.

12 Q Have you been in prison since that time?

13 A I was first taken to Rankin County jail for about four
14 months. And after sentencing, I was taken to the prison, to
15 MDOC.

16 Q When you and your wife spoke, were you in jail?

17 A Yes, I was.

18 Q How did you speak with her?

19 A Over the phone.

20 Q Are those phone calls recorded?

21 A Yes, they are.

22 Q Are you told each time that you use the phone that the call
23 is recorded?

24 A You know when you first come in. They tell you that, you
25 know, all the phone calls are recorded.

1 Q During any of those calls did you or your wife discuss the
2 Taurus revolver that the agent found at your home in
3 December 2016?

4 A Yes, it was brought up.

5 Q And when we met before, did you listen to portions of some
6 of those phone calls?

7 A Yes, I did.

8 MS. CASE: Your Honor, may I approach the witness?

9 THE COURT: You may.

10 BY MS. CASE:

11 Q Mr. Beard, I've handed you what's been marked as
12 Government's Exhibit 21(a). Do you recognize that?

13 A The audio tape or CD that we listened to the other day, and
14 I initialed it afterwards.

15 Q You recognize it because you initialed it?

16 A Yes.

17 Q Is that in the same condition as you last saw it?

18 A Yes, ma'am, it is.

19 MS. CASE: Your Honor, the government would ask to
20 retrieve that exhibit and admit it into evidence.

21 THE COURT: Any objection?

22 MR. RICH: No objection, Your Honor.

23 THE COURT: All right. Ms. Case, you can retrieve it
24 and exhibit -- you said 21(a)?

25 MS. CASE: Yes, Your Honor.

1 THE COURT: Is admitted.

2 (Exhibit G-21(a) marked)

3 BY MS. CASE:

4 Q When you listened to that call, did you have a transcript
5 of what you were hearing?

6 A Yes, I did.

7 Q And did that transcript accurately reflect what was said in
8 your recorded conversation?

9 A Yes, it did.

10 Q Did you make any corrections to the transcript?

11 A On one of them, one of the words wasn't audible, and I knew
12 it, that she said "bullet."

13 Q Did I ask you to initial beside each line of the
14 transcript?

15 A Yes, you did.

16 Q And did I ask that you sign the transcript?

17 A Yes, you did.

18 MS. CASE: Your Honor, may I approach?

19 THE COURT: You may.

20 MS. CASE: Mr. Beard, I've handed you what's been
21 marked Government's Exhibit 21(b). I'll ask if you recognize
22 that.

23 A Yes, I do.

24 Q How do you recognize that?

25 A This is the transcript that you handed me the other day

1 while I was listening to the CD.

2 Q And is that in the same condition as the last time you saw
3 it?

4 A Yes, ma'am, it is.

5 Q Does it show your correction to the transcript?

6 A Yes, it does.

7 MS. CASE: Your Honor, the government would move into
8 evidence what has been premarked Government's Exhibit 21(b).

9 THE COURT: Any objection?

10 MR. RICH: No objection, Your Honor.

11 THE COURT: 21(b) is admitted.

12 (Exhibit 21(b) marked)

13 MS. CASE: May I retrieve the exhibit?

14 THE COURT: Yes.

15 MS. CASE: Well, let me let him have it as well, Your
16 Honor.

17 THE COURT: All right.

18 BY MS. CASE:

19 Q During this call, did you and your wife discuss the .22
20 caliber Taurus revolver?

21 A Yes, we did.

22 Q How did you refer to the gun?

23 A As her birthday present.

24 Q Why did you do that?

25 A Because I knew we were being recorded.

1 Q And about when did and your wife have this conversation?

2 A This would have been the first week or two of when I was
3 arrested, and I was in Rankin County jail.

4 Q This would have been in December 2016?

5 A Yes, ma'am.

6 Q Was that before or after you and your wife were indicted?

7 A Way before, a year before.

8 MS. CASE: Your Honor, may we approach for just a
9 moment?

10 (At the Bench:)

11 MS. CASE: We have physical copies of the transcript
12 for the jury because it can't be shown at the same time that we
13 play the audio, and we also believe a limiting instruction
14 should be read before we play this, and we're about to play it
15 so --

16 THE COURT: I have the limiting instruction ready.

17 And any objection to handing out the copy of the transcript?

18 MR. RICH: No.

19 MS. CASE: Shall I give it to Twana?

20 THE COURT: Yes.

21 (Bench Conference Concluded)

22 THE COURT: All right. Ladies and gentlemen, you're
23 about to receive copies of the transcripts. Exhibit 21(b) is a
24 typewritten transcript of the oral conversation which can be
25 heard on the tape recording I admitted as 21(a). The

1 transcript also purports to identify the speakers engaged in
2 the conversation. I admitted the transcript for the limited
3 and secondary purpose of aiding you in following the content of
4 the conversation as you listen to the tape recording and also
5 to aid you in identifying the speakers.

6 You are specifically instructed that whether the
7 transcript correctly or incorrectly reflects the content of the
8 conversation or the identity of the speakers is entirely for
9 you to determine based on your own evaluation of the testimony
10 you have heard concerning the preparation of the transcript and
11 from your own examination of the transcript in relation to your
12 hearing of the tape recording itself as the primary evidence of
13 its own contents. And if you should determine that the
14 transcripts -- the transcript is in any respect incorrect or
15 unreliable, you should disregard it to that extent.

16 MS. CASE: Your Honor, for the record I would ask that
17 we be able to publish Government's Exhibit 21(a) and(b) to the
18 jury.

19 THE COURT: You may.

20 BY MS. CASE:

21 Q Before we begin, Mr. Beard, whose voices will we hear on
22 this recording?

23 A Heather's and mine.

24 (Clip Played)

25 Q So, Mr. Beard, what were the voices that we heard?

1 A That was Heather's voice and mine.

2 Q And what are you and your wife talking about?

3 A We are talking about the search, and I was curious if they

4 had found that pistol.

5 Q And so what did you mean when you say "birthday present"?

6 A It was purchased around the time of her birthday, and I was

7 referring to it as a birthday present because I didn't -- it

8 wasn't supposed to be in the house. I didn't want to say it,

9 you know, because they might not have been in the house and so

10 I referred to it as a birthday present.

11 Q I'm holding Government's Exhibit 4, which is the .22

12 caliber Tarus revolver. Is that what you say -- what you're

13 referring to when you say "birthday present"?

14 A Yes, it is.

15 Q What does your wife say after you asked her whether the

16 agents found the birthday present?

17 A The Taurus .22 pistol, the pistol.

18 Q So your wife knows what you mean by "birthday present"?

19 A Yes, she did.

20 Q And what is her answer to your question about whether the

21 agents actually found the revolver?

22 A She said, yes, that they found it and they found ammunition

23 and stuff and bullets.

24 Q And does she acknowledge that she spoke with agents about

25 the gun?

1 A She told me -- I don't remember if that was the
2 conversation or another conversation that when they asked her
3 was any guns in the house, any other guns, she told them where
4 the Taurus was.

5 MS. CASE: No further questions, Your Honor.

6 THE COURT: All right. Thank you. Can we collect the
7 transcripts?

8 CROSS-EXAMINATION

9 BY MR. RICH:

10 Q Mr. Beard, earlier you said that you married your wife out
11 of love. Is that correct?

12 A Yes, sir.

13 Q What day did you marry her?

14 A It was September -- right before my -- I think it was
15 September 9th.

16 Q You think?

17 A Yes, I don't remember. It's been two years, and we haven't
18 been getting along in the last two years, 19 months.

19 Q What's your wife's birthday?

20 A August 2nd, 1978.

21 Q And you said earlier that she was with you when you
22 purchased this gun?

23 A Yes, she was. We were in my Yukon.

24 Q And the gun was handed to her?

25 A It was handed through the window because Ian couldn't come

1 to my side.

2 Q You said that you bought it for her protection?

3 A Yes, I did.

4 Q Okay. And you said earlier today that you brought it in
5 June or July of 2016.

6 A It was after we had signed my plea bargain and I knew I was
7 going to prison, or around that time. My lawyer had told me
8 that I was definitely going.

9 Q And you're certain you bought it in January or July?

10 A Yes.

11 Q You spoke to ATF agents on June 8th of 2017. Do you
12 remember that conversation -- of 2016.

13 A Yes, I do.

14 Q Excuse me. Let me -- I'm sorry, Mr. Beard. Let met back
15 up. I got that date wrong. June 8, 2017.

16 A Right. They came to Greene County.

17 Q It was after you had pled guilty in Rankin County.

18 A Yes, I was in MDOC prison at that time.

19 Q Okay. And it's your testimony today that you purchased the
20 gun in June or July?

21 A Right. I purchased that summer.

22 Q And during that interview, they told you that it was a
23 federal felony to make a false statement to a federal agent.

24 A I'm sure they did.

25 Q And during that interview, you told them that you bought

1 the gun in September?

2 A I wasn't exactly sure when I bought it. It was a lot going
3 on then. I was getting ready to go to prison.

4 Q But that was only six months after the event?

5 A Do what?

6 Q That was closer to the event than we are today.

7 A I mean, it was a month difference. I mean June, September.
8 I mean, it was August.

9 Q June, July, August, September. And you said in June of
10 2017, a year ago, that you bought it in September.

11 A I bought it that summer. I didn't remember the exact date.

12 Q And they interviewed you for over an hour that day.

13 A Sir?

14 Q They interviewed you for over an hour that day.

15 A I believe so. They videoed it.

16 Q And today you said that you bought it for her protection.

17 A That's right.

18 Q That was your testimony. During that interview, June of
19 last year, you told them that you bought it for her for a
20 birthday present.

21 A Right.

22 Q All right. But today you didn't say you bought it for a
23 birthday present.

24 A It was bought around her birthday.

25 Q Today you said you used the term "birthday present" in the

1 phone call as code.

2 A Yes, I did.

3 Q But you didn't buy it for a birthday present.

4 A It was bought for protection is what it was bought for. It
5 was bought for a gift for her.

6 Q You told agents a year ago you bought it for a birthday
7 present.

8 A Yes.

9 Q A year ago during that interview, you didn't tell agents
10 that she was with you when you purchased it.

11 A I don't believe they asked. I was trying to protect my
12 wife too at that time.

13 Q You never said she was with you.

14 A No, I may not have.

15 Q You said you bought it for her protection for when you went
16 to prison on the Rankin County charge.

17 A Yes.

18 Q And that was a charge of residential burglary?

19 A Yes.

20 Q But you didn't go to court?

21 A I plea bargained.

22 Q You were explaining the details of -- that led to your
23 arrest in that Rankin County charge earlier.

24 A Yes.

25 Q And did you plead guilty in that case because you are

1 guilty?

2 A Somewhat. I did not go into the house, but the person that
3 I asked to go with me did go in the house. And so my lawyer
4 explained to me no matter what I was still guilty, and I was.

5 Q And you went into the house to retrieve property?

6 A Yes, I did.

7 MR. RICH: Your Honor, may I approach for just a brief
8 moment?

9 THE COURT: Sure.

10 (At the Bench:)

11 MR. RICH: I'm only asking him questions about
12 circumstances that led to his arrest that -- on that charge
13 because the door is opened for him to explain the circumstance
14 leading to that charge, and he did not plead guilty to
15 possession of firearms in that case. But it's my understanding
16 that he possessed firearms upon his arrest, and I'd like to ask
17 him a question about that.

18 THE COURT: Any objection?

19 MS. CASE: I'm not sure I understand.

20 MS. MIDDLETON: You're saying that he possessed
21 firearms when he --

22 MR. RICH: He was indicted --

23 MS. MIDDLETON: -- was arrested?

24 THE COURT: We're making a transcript. This is your
25 witness.

1 MS. CASE: I'm not sure I understood. You're saying
2 the door was opened to firearms at that time?

3 MR. RICH: Because explanation of the circumstances
4 surrounding those charges were asked about, and he was charged
5 with possession of firearms.

6 MS. CASE: The questions had to do with his -- what
7 led him to being arrested, which was not appearing for a
8 sentencing on a charge he pled guilty to.

9 THE COURT: Are you objecting to something?

10 MS. CASE: Yes, Your Honor.

11 THE COURT: On what basis?

12 MS. CASE: On the basis that the door that Mr. Rich is
13 speaking of has not been opened. The questions of Mr. Beard
14 backed from why were agents arresting you in December of 2016,
15 because I did not show up for my sentencing because I had pled
16 guilty to a charge of home invasion. We did not explore any
17 other charges that were hanging out there.

18 THE COURT: Right. His point would be that you didn't
19 go into everything that actually involved the circumstance.
20 But whether the door is open or not, I need to start with why
21 you think it's admissible.

22 MR. RICH: I think it's admissible to show that there
23 were other charges that he didn't plead to. He's saying that
24 he pled guilty for a plea bargain. I think it goes to his
25 motive in that case to plead as it goes to his motive in this

1 case to plead.

2 THE COURT: All right. I'm going to allow it.

3 (Bench Conference Concluded)

4 BY MR. RICH:

5 Q Mr. Beard, you said on that Rankin County charge you
6 decided to reach a plea deal.

7 A Yes.

8 Q You were indicted on that case for possession of firearms,
9 weren't you?

10 A No, no. I was never indicted on possession of firearms.

11 Q Were firearms found?

12 A Firearms were found in my truck the day I was arrested, but
13 I don't believe -- I may have been indicted, but they were
14 dropped.

15 Q But they were dropped.

16 A Right.

17 Q As part of a plea deal.

18 A As part of the plea.

19 Q So part of your motive for pleading in that case was to
20 avoid one charge and get a reduced sentence on the house
21 burglary.

22 A It was getting a reduced sentence, yes.

23 Q You mentioned earlier that when were you discussing your
24 marriage to your wife that you bought the gun for her
25 protection. And you mentioned that it was solely for her

1 protection. You lived in a bad neighborhood.

2 A Right. Both our protection until I went to prison. I
3 didn't want to leave her alone there with just her and the dog
4 in that neighborhood.

5 Q And you married her so she could visit you in prison?

6 A We were in love, yes, and she could visit me in prison and
7 be there for me. I left her with everything I had so she could
8 take care of me in prison.

9 Q Before you married her, you owned that building by
10 yourself?

11 A Yes. I was in purchasing, yes, buying it. It was put in
12 my name before we were married when I paid the tax off on it.

13 Q And there was a tax sale on that property?

14 A Right. The gentleman I was purchasing it from did not pay
15 the taxes, and it came up for sale for taxes.

16 Q So you're telling the jury your marriage had nothing to do
17 with protecting your property?

18 A Do what?

19 Q Your marriage had nothing to do with protecting your
20 property?

21 A Well, sure. I mean, I left everything to her. Hopefully
22 when I got out in a year and a half, two years, I would be able
23 to come home to my wife, my buildings, my cars and stuff. Yes,
24 I was definitely hoping for that.

25 Q You mentioned earlier that you didn't go to court in

1 October of 2016 in Rankin County because Ms. Beard wouldn't
2 drive you.

3 A Yes. We had gotten -- we were -- planned to get up that
4 morning and go to my sentencing. I got up and I got in the
5 shower. And we were already late, and I came back out and she
6 was refusing to go with me to drive me or anything because the
7 windshield was busted out of the Yukon. We had been in a fight
8 prior to that, and I was not going to drive myself there and
9 leave my vehicle in the parking lot.

10 Q So you were more concerned about the status of your
11 property than going and turning yourself in?

12 A At that time I was using drugs. I was -- I wasn't thinking
13 right. I should have went and turned myself in. I wouldn't be
14 here.

15 Q Let's talk about that drug use. You said that the
16 methamphetamine in the house was yours.

17 A Yes, it was.

18 Q The rig that we saw a picture of, and rig -- by "rig," I
19 mean the syringe.

20 A Yes.

21 Q That was loaded?

22 A Yes.

23 Q Was yours?

24 A Yes.

25 Q And you were using methamphetamine multiple times a week?

1 A Yes.

2 Q And you were injecting it?

3 A Yes.

4 Q And you just said during that time you were messed up.

5 A Yes. That syringe had been laying there for three days.

6 Q And you were using multiple times a week.

7 A Yes.

8 MR. RICH: Court's indulgence.

9 THE COURT: Of course.

10 (Short Pause)

11 BY MR. RICH:

12 Q Mr. Beard, I'm showing you what's been marked as G-33(j).
13 You identified this earlier as a drawer on your side of the
14 bedroom.

15 A Yes, sir.

16 Q And there are multiple methamphetamine baggies in this
17 drawer.

18 A Yes, there are.

19 Q And there is, for lack of a better term, a stack of cash in
20 the drawer.

21 A About \$200.

22 Q And there's also a .22 bullet in the drawer.

23 A Yes.

24 Q And that .22 bullet is in your drawer.

25 A Yes, it is.

1 Q Where did you get these shotgun shells?

2 A From my father, and my father was -- lived in Vicksburg
3 when he passed away. He was a hunter and Warren County deputy
4 at one time. And different ones he had collected and stuff.
5 When he passed away, that was some of the stuff I got from
6 there.

7 Q All the ammunition came from your father?

8 A I'd say 90 percent of it, yes.

9 Q When you were interviewed last year, you told ATF agents
10 that you bought a bunch of junk from some guy.

11 A Yeah. That's where some of it come from, the clips. The
12 rounds that are -- I don't even know what they are, they are
13 some kind of AK rounds or something that come from him.

14 Q You've given two statements to ATF agents. Is that
15 correct?

16 A No, one that he come to see me at Greene County.

17 Q Did people come interview you about a week and a half ago?

18 A No, I came here and we talked here, yes.

19 Q Two interviews were conducted with you?

20 A Yes, yes. I was -- it wasn't ATF. It was the government
21 there.

22 Q And in both of those interviews, you never mentioned
23 anything about this ammunition coming from your father.

24 A Yes, I did. Maybe not the first one, you know, but I did
25 on the ones here.

1 Q You said that -- Mr. Beard, you said earlier that your
2 wife -- you saw her fire the gun, this Taurus, twice into the
3 air one evening.

4 A I didn't see it. She was behind me. She fired it. I spun
5 around. It was in her hand. There was a little shed from the
6 back neighborhood went through our fence. We have a fence, big
7 security fence, be around it. It was in our property. She
8 fired it in the air, and I turned around and she was hollering,
9 *Next time I'm going to put one in your ass.*

10 Q It was loud?

11 A Yeah.

12 Q Fired it twice.

13 A Yeah. She was behind me.

14 Q So the gun was loaded.

15 A Yes, it was loaded.

16 Q And it frightened you?

17 A Yes. It scared the mess out of me. I wasn't expecting it.

18 Q And you didn't take the gun away from her that night?

19 A No.

20 Q But you took the gun away from her at some point, you said
21 earlier.

22 A Right.

23 Q You said you gave it to a man named Todd Bates.

24 A Todd Bates.

25 Q And you said you didn't know that the gun was still there.

1 A Todd was supposed to be holding it, and either Todd or his
2 twin brother, Tim, must have gave it back to her.

3 Q Mr. Beard, I'd like to -- do you still have a copy of your
4 transcript?

5 A Yes.

6 Q I'd like to direct you to that transcript. You see on the
7 second of that transcript, you asked her, "Heather," on this
8 telephone, "Did they find your birthday present?"

9 A Right.

10 Q You asked her.

11 A Right.

12 Q You asked her about something that you believed did not --
13 was not still in the house.

14 A It was not supposed to be in the house.

15 Q Why would you ask her about something that was not supposed
16 to be in the house?

17 A I had found out she had been talking to Tim Bates --
18 romantically involved with Tim Bates.

19 Q This Winchester rifle, you said you weren't sure who put it
20 in the gun safe?

21 A There was a lot of stuff moved in and out. Sometimes there
22 were things -- some stuff taken out of there and sold because
23 we needed the money. And I'm not actually sure which one of us
24 put it in there. Like I said, it was, at the time, all rusty
25 and brown, and it was a piece of junk.

1 Q But a week and a half ago you told members of the U.S.
2 Attorney's Office and Agent Robichaux that she put it in the
3 gun safe.

4 A Right.

5 Q You made that definitive statement a week and a half ago.

6 A Got to thinking about it, and I told them the next week it
7 might have been either me or her.

8 Q And then a year ago when they interviewed you, you said --
9 let me ask you about that interview a year ago. You were read
10 your *Miranda* rights before that interview, weren't you?

11 A Yes, I believe so.

12 Q That interview was video and audio recorded, wasn't it?

13 A Yes, it was.

14 Q And again they told you that it was a federal felony to
15 give a false statement to a law enforcement officer.

16 A That's right.

17 THE COURT: Mr. Beard, do me a favor and stay close to
18 that mic. Okay?

19 MR. BEARD: Okay.

20 BY MR. RICH:

21 Q During that interview, you said, "I just threw it in the
22 gun cabinet with the air rifles we have." That was your
23 statement in June of last year.

24 A That's probably true.

25 Q At first when you were asked by -- let me ask one more

1 question before we go here. You mentioned earlier today that
2 Ms. Beard shot that Taurus -- pulled the trigger on that Taurus
3 three times.

4 A In my face.

5 Q In your face.

6 A Yes, in the shop area, the garage area.

7 Q A year ago you didn't tell law enforcement that, did you?

8 A No, I did not.

9 Q A year ago when you -- when you did that interview with law
10 enforcement, you told them that .22 Winchester rifle was not a
11 working firearm.

12 A That's right. I did tell them that.

13 Q You believed that?

14 A I believed that because it doesn't have a serial number.
15 And the shape it was in and where I found in a vehicle with
16 leaves all over it, I wasn't going to try and fire it.

17 Q But you've since learned that it is a working firearm.

18 A After I was told that the ATF fired it, I was showed a
19 report to where they fired it. So, I mean, I have to go by
20 their report is all I know.

21 Q Earlier today you mentioned that after you found the
22 firearm you called the owner of the vehicle that you had
23 purchased.

24 A Buddy of mine I had got it from, yes.

25 Q A year ago during that interview with ATF, you stated about

1 that firearm, that Winchester rifle, "It was in a vehicle. It
2 was in the back. It didn't have a serial number or nothing on
3 it so I Googled it."

4 A So I what?

5 Q "I Googled it," in reference to how you knew it was not a
6 working firearm.

7 A Right, right.

8 Q You never told them that you called the man who owned it.

9 A I did. I just didn't tell them. I called Dax. He told me
10 that, and I Googled. And they used to bring them into the
11 schools when I was six or seven years old. The game wardens
12 used to do a hunting and safety course in the schools. Of
13 course, they wouldn't bring a firearm in that would fire.

14 Q But you didn't tell them that day what you're telling us
15 today.

16 A I told them I believed that it was a hunting safety course
17 weapon, yes, I did.

18 Q But you did not tell them that you called the owner of the
19 gun?

20 A No. I probably didn't mention Dax's name.

21 Q So let's go through some things that we've gone over today.
22 So a year ago you didn't tell ATF agents about her shooting the
23 gun three times -- or three times at you unloaded.

24 A No, I did not.

25 Q You told the agents that the Winchester rifle was not a

1 working firearm.

2 A That's right.

3 Q And it is a working firearm.

4 A I did not know that at that time.

5 Q A year ago you told ATF agents that you put the gun in the
6 gun cabinet.

7 A Okay. I may have. I'm sure I did.

8 Q A week and a half ago you told members of the U.S.

9 Attorney's Office that Heather put the gun in the gun cabinet.

10 A Right. Could have been Heather or I. And at that time too
11 I was trying to protect my wife from getting charges.

12 Q And now you're not trying to protect her.

13 A She's been charged.

14 Q Now you're not trying to protect her.

15 A No, I'm telling the truth.

16 Q Since those statements a year ago, between a year ago and
17 today, you believe that your wife is having an affair with
18 someone?

19 A Having what?

20 Q An affair.

21 A She definitely was. He's living in my house sleeping in my
22 bed. There's a report from the probation officer that he was
23 naked in my bed.

24 Q You believe that your wife has sold some of your property.

25 A My wife sold -- yes, she sold a lot of my stuff.

1 Q You're unhappy with your wife because she hasn't put enough
2 money on your jail account.

3 A I have plenty of money on my jail account. My niece put
4 \$3,000 on there for me.

5 Q But you're unhappy with her because she has not put money
6 on your jail account.

7 A I'm unhappy with my wife because she has not been loyal to
8 me and stood by me.

9 Q Since those statements a year ago today, you pled guilty in
10 this case.

11 A Do what?

12 Q Since you gave statements to ATF agents a year ago, you
13 pled guilty in this case.

14 A Yes, I have.

15 Q And you have not been sentenced in this case. Correct?

16 A Correct.

17 Q But you have received a copy of your presentence report?

18 A Yes, I have.

19 Q So now you have an idea of how much time you're facing in
20 the case?

21 A Yes, I do.

22 Q And --

23 A Nine years.

24 Q And you hope to reduce that by cooperating with the
25 government?

1 A That's up to the judge. Yes, I'm praying for it, but it's
2 up to the judge.

3 Q So in the Rankin County charge case, you were found with
4 firearms. Is that correct? Firearms?

5 A Yes.

6 Q And you reached a plea deal in that case?

7 A Yes.

8 Q In this case, there were guns found in the house. Correct?

9 A Yes.

10 Q And you're cooperating after finding out how much time you
11 were facing?

12 A I'm cooperating because I was shown definitive proof that
13 my wife had a naked man in my bed.

14 Q You're cooperating because you're angry with your wife?

15 A I'm upset with my wife, yes. But I'm telling the truth.

16 Q Which the statements that you've made today differ from the
17 statements that you've given to ATF agents in the past.

18 A Yes. I was trying to protect my wife when they came to
19 Greene County. She was not charged at that time.

20 Q Let me ask you one other question. I can't remember did
21 you say earlier that you pled guilty in the Rankin County case
22 to home burglary because you were guilty?

23 A Yes. Yes, I was guilty.

24 MR. RICH: Court's indulgence.

25 (Short Pause)

1 MR. RICH: Your Honor, with tender the witness.

2 THE COURT: All right. Redirect?

3 MS. CASE: Your Honor, may we approach briefly?

4 THE COURT: Yes.

5 (At the Bench:)

6 MS. CASE: Your Honor, on redirect I intend to seek to
7 introduce Government's Exhibit 17(a), at least clips of it.
8 This will be under the prior consistent statement rules of
9 evidence. Mr. Rich has not seen the clipped portions of the
10 interview that he's been discussing with Mr. Beard. Mr. Beard
11 hasn't seen them either, but unless we -- I was trying to think
12 if he should get an opportunity to see how we clipped it to
13 make sure he does not have an objection to where we start and
14 stop the conversation, principally because there are things
15 from the motion in limine that should not be revealed to the
16 jury.

17 THE COURT: All right. It's 12:00 and you probably
18 want to see it before -- you have a right to see it before they
19 use it. We'll go ahead and take the lunch break at this point.
20 I'm going to instruct your client not to leave the building.

21 MR. RICH: I think that's a good idea. Please do.

22 THE COURT: So if you want to arrange for somebody to
23 bring her lunch or something. I'll say that after the jury's
24 gone.

25 (Bench Conference Concluded)

1 THE COURT: All right. Ladies and gentlemen, it's
2 almost noon. There is some housekeeping work that I need to do
3 with the attorneys. And instead of having you sit there
4 through it, I'm going to go ahead and let you take your lunch
5 break. I'll ask you to come back at 1:00.

6 Remember don't talk to anybody in or around the
7 courthouse. Don't do any research. Don't communicate with
8 anybody about the case. Keep an open mind because you have not
9 heard all the evidence. Leave your notepads in your chair, and
10 I hope you have a good lunch, and I'll see you at 1:00.

11 (Jury Out)

12 THE COURT: All right. Mr. Beard, during the lunch
13 don't speak with anybody about the case. Okay. Ms. Beard, I'm
14 instructing you not to leave the building. There's some
15 machines down in the basement that have some food, and,
16 Mr. Rich, you can arrange to get her something else if that's
17 not sufficient.

18 My understanding is that -- have you ever received a
19 copy of the transcript that's in issue here?

20 MR. RICH: I have not, Your Honor. I understand
21 there's clips of certain videos. I have seen the videos in
22 their whole but not the clipped version.

23 THE COURT: Okay. Let me ask you to go ahead and look
24 at that and if there are issues that need to be addressed
25 before the jury comes back in, just send a note back and we can

1 come back in maybe a couple of minutes early and knock that
2 out. Anything else before we break for lunch?

3 MS. CASE: No, Your Honor.

4 THE COURT: Court's in recess. Thank you.

5 (Recess)

6 THE COURT: All right. Ms. Case, I understand there's
7 something that you need to authenticate, but there's no way to
8 do it technologically with the jury in the room. Is that
9 right?

10 MS. CASE: That's right, Your Honor.

11 THE COURT: Okay. Mr. Rich -- I suppose what you want
12 to do it right now?

13 MS. CASE: We would like to, yes, Your Honor. We have
14 four rather short video clips that we'd like to have Mr. Beard
15 authenticate so that then we could proceed with the jury as to
16 what's on them.

17 THE COURT: All right. Any objections?

18 MR. RICH: No, Your Honor.

19 THE COURT: All right. You may proceed.

20 EXAMINATION OUTSIDE THE PRESENCE OF THE JURY

21 BY MS. CASE:

22 Q These clips are marked as Government's Exhibit 17(a)
23 through 17(d), and Mr. Beard we're going to play them
24 one-by-one starting with 17(a), and I'll ask that you review
25 them and tell us if you recognize them.

1 (Clip Played)

2 Q The next one will be 17(b).

3 (Clip Played)

4 Q This next clip is Government's Exhibit 17(c).

5 (Clip Played)

6 Q And the last clip is Government's Exhibit 17(d).

7 (Clip Played)

8 Q Mr. Beard, do you recognize what you just saw and heard?

9 A Yeah. That's the videos from Greene County last year.

10 Q Who's speaking in those videos?

11 A I was, an ATF officer.

12 Q Are these accurate recordings of the portions of your
13 interview with ATF?

14 A Yes. This is the interview with ATF.

15 MS. CASE: Your Honor, the government would move to
16 admit into evidence what has been premarked as Government's
17 Exhibits 17(a) through 17(d).

18 THE COURT: Any objection?

19 MR. RICH: No objection.

20 MS. CASE: We would ask that we be able to publish
21 those to the jury.

22 THE COURT: Of course. 17(a) through(d) are admitted.

23 (Exhibit D-17(a) through 17(d) marked)

24 THE COURT: Are we ready to bring the jury back in?

25 MS. CASE: We have one audio clip that might be

1 appropriate to go ahead and do it at this time. It's a short
2 clip as well. And it will be marked for identification as
3 government's 22(c).

4 (Clip Played)

5 BY MS. CASE:

6 Q Mr. Beard, do you recognize what you heard?

7 A Yes. It was a phone conversation between Heather and I
8 when I was at Rankin County jail.

9 Q Is that an accurate recording of that phone conversation?

10 A Yes, it was. Yes, it is.

11 MS. CASE: That's all, Your Honor. At this time we
12 would just ask that that be marked for identification purposes.

13 THE COURT: All right. It will be marked for
14 identification.

15 MS. CASE: This is 22(c).

16 (Exhibit G-22(c) for ID marked)

17 MS. CASE: I believe that's all we have before the
18 jury comes in, Your Honor.

19 THE COURT: Okay. Mr. Rich, anything before we bring
20 the jury back?

21 MR. RICH: No, Your Honor, other than G-22(c), that's
22 the recording of that jail transcript that I filed the motion
23 on. And since they haven't sought to introduce it, I don't
24 think it's appropriate for me to make an objection. But
25 just -- I'm sure the court knows I intend to renew my objection

1 to a portion of that jail call.

2 THE COURT: I understand. And based on our
3 conversation yesterday, Ms. Case, I think you indicated that
4 you would bring to it my attention outside the presence of the
5 jury before you tried to introduce it.

6 MS. CASE: That's right, Your Honor. We just took the
7 opportunity to authenticate it while we're here.

8 THE COURT: I understand. All right. Anything else?

9 MS. CASE: No, Your Honor.

10 THE COURT: All right. Shone, will you get the jury.

11 (Jury In)

12 THE COURT: All right. Thank you. You may proceed.

13 MS. CASE: Thank you.

14 REDIRECT EXAMINATION

15 BY MS. CASE:

16 Q Mr. Beard, Mr. Rich asked you had a series of questions
17 about what you told ATF agents in this case. Do you recall
18 when -- do you recall being interviewed by ATF agents?

19 A I do.

20 Q And did that interview take place about a year ago?

21 A Yes.

22 Q I'm going to play Government's Exhibit 17(b) and ask you
23 some questions about it after it plays.

24 A Okay.

25 Q Excuse me, 17(a).

1 THE COURT: Ms. Case, hang on a second. I'm sorry.
2 Ladies and gentlemen, I hate to do this to you, but I'm going
3 to ask you go back to the jury room for just a minute. Okay.

4 (Jury Out)

5 THE COURT: All right. Before lunch, I had instructed
6 Ms. Beard not to leave the building. My understanding is that
7 she did leave the building. I don't think she left the
8 premises, but she left the building. I asked probation to run
9 a drug test when she did come back, and my understanding -- and
10 I'll ask the officer here in a second. My understanding is
11 that she tested positive.

12 Brooke, why don't you come up here for a second. All
13 right. Officer Sullivan, will you just tell me the results of
14 the drug test.

15 PROBATION OFFICER: The defendant tested positive for
16 amphetamines and methamphetamine. She admitted that she took
17 Adipex that did not belong to her a couple of days ago which
18 would test positive for the amphetamine. Methamphetamine will
19 only test positive if it is methamphetamine. She denied use or
20 said it had been several months since she used ice, but that
21 there is no meth anymore. Nobody makes meth, that it's ice.
22 Of course, ice is methamphetamine, as Your Honor I'm sure is
23 aware.

24 THE COURT: Okay. All right. Thank you. Stick
25 around, though. Counsel, my concern is we're getting near the

1 end of the trial here. She's going to have to make a decision
2 whether to testify or not, and she's just tested positive for
3 methamphetamine. I've never had this situation before, but
4 here it is, and I guess I would welcome your input on the
5 appropriate next step. Obviously at some point outside the
6 presence of the jury you need to talk about revoking her bond.
7 But in terms of going forward, I'm not sure what -- I want to
8 hear from both sides.

9 MR. RICH: Your Honor, I understand we need to have
10 this discussion. I don't know if this is something that we
11 should do outside of the presence of the current witness.

12 THE COURT: That's fine. Would you take him back.

13 (Witness Removed from the Courtroom)

14 THE COURT: So I guess, let me hear from the
15 government first.

16 MS. CASE: Your Honor, I'm a little bit stumped is my
17 first reaction. We might have to back up even before the
18 possibility of testifying to the ability to assist her counsel
19 effectively, and there may need to be a hearing on that.

20 THE COURT: Mr. Rich.

21 MR. RICH: Your Honor, I can say that throughout today
22 when Mr. Beard has been present with me yesterday when she was
23 present with me that she participated in her defense. She
24 asked questions to me that showed me that she was paying
25 attention to testimony during the trial, evidence that was

1 introduced. She participated in jury selection. They made
2 notes about potential jurors, and we discussed those notes, and
3 she was with me every step along the way up until now up until
4 this discussion. She's been participating in her defense.

5 Prior to this trial, we've had multiple telephone
6 conversations. She's come to my office, and she and I have
7 discussed where the case stood, the evidence in the case and
8 I've never had any -- I've never had any doubt that Mr. Beard
9 knew -- knew the full extent of the charges that she was
10 facing.

11 I've never had any doubt that she did not understand
12 the full extent of the discovery materials that were provided
13 to us, and that she was -- that she had had an inability to
14 make a rational decision on how to proceed, whether to go to
15 trial or reach a plea deal or anything that we've been doing
16 here this week. There have been no red flags to me, Your
17 Honor.

18 THE COURT: I suppose -- I suppose one option is to if
19 she chooses to speak, to hear from Ms. Beard and just confirm
20 what Mr. Rich just told me and to see when -- the last time she
21 consumed meth was and whether she's under its influence at this
22 time. I'm not sure what else to do.

23 MS. CASE: Your Honor, should there be at least a
24 brief colloquy now to confirm now that she has tested positive
25 to ensure her current state is appropriate?

1 THE COURT: That's what I'm asking. That's what I'm
2 suggesting.

3 MS. CASE: Okay. Oh, to do it right now?

4 THE COURT: Right. You say "colloquy," you mean
5 between me and her. Right?

6 MS. CASE: Yes, Your Honor.

7 THE COURT: That's what I'm proposing.

8 MS. CASE: We would agree with that, Your Honor.

9 THE COURT: Mr. Rich, would you like to speak with
10 your client for a minute before we go any further?

11 MR. RICH: If we could, Your Honor.

12 THE COURT: Okay. Why don't you go -- are there any
13 witnesses in the witness room?

14 MR. RICH: Not that I know of.

15 THE COURT: All right. But she is not going past that
16 courtroom door.

17 MR. RICH: Correct, Your Honor.

18 THE COURT: All right.

19 (Recess)

20 THE COURT: All right. We've had a couple of minutes
21 to allow Mr. Rich to meet with his client, but also I guess I
22 see some reinforcements in the room. This -- as I said, I'm
23 not sure procedural what is the correct step here. Ms. Case,
24 have you had a chance -- or Ms. Middleton an opportunity to
25 have somebody look at that already?

1 MS. CASE: We have attempted to confer in the brief
2 recess. Just from experiences at other types of court
3 proceedings, if the defendant were to test positive for
4 something like this, the proceeding would probably not proceed.
5 I hate to say that, but that's the direction we're leaning
6 right now, Your Honor.

7 THE COURT: You think the safe course would be to
8 declare a mistrial and start again Monday morning?

9 MS. CASE: One moment, Your Honor.

10 (Short Pause)

11 MS. CASE: To answer that question, Your Honor, what
12 we're attempting to discuss is whether we know when Ms. Beard
13 last was affected by drugs, and we're asking probation if they
14 know that answer.

15 THE COURT: I asked her the same thing.

16 (Short Pause)

17 MS. CASE: Reluctantly we believe that's right, Your
18 Honor. Your suggestion?

19 THE COURT: All right. Officer, would you grab a
20 microphone. Ms. Sullivan, I had asked you when you gave me the
21 report your understanding of how long methamphetamine will
22 remain in the system and show up on a test. And just for the
23 record here, what was your advice to me?

24 PROBATION OFFICER: The defendant would have had to
25 use methamphetamine within the last 72 hours, give or take

1 eight hours or so. But it doesn't stay in your system much
2 longer than that at all.

3 THE COURT: Okay. Thank you. All right. Mr. Rich,
4 the government has indicated that with that information that
5 the most prudent course here would be to declare a mistrial and
6 start over. Do you have a position?

7 MR. RICH: Your Honor, I think my position and my
8 client's position are in conflict. I would agree that that's
9 prudent. I've instructed Ms. Beard that what will probably
10 happen as a result of a mistrial is she will probably be taken
11 into custody and will be held in custody until we have the next
12 trial.

13 THE COURT: Well, I intend to -- I'm sorry. I
14 interrupted you. Go ahead and finish.

15 MR. RICH: During that discussion, she told me she
16 does not want a mistrial declared and that she would wish --
17 she wishes to proceed with the trial that we're currently
18 participating in.

19 THE COURT: All right.

20 MR. RICH: I can say normally I would agree. My
21 client has instructed me. Her wishes differ than from what I
22 would normally advise.

23 THE COURT: Will she put on any evidence to contradict
24 the drug test? Obviously, Ms. Beard, you can testify if you
25 want. But you have the right to remain silent, and it's a

1 decision that only you can make. Mr. Rich can't make it for
2 you. But, Mr. Rich, why don't you chat with your client for a
3 second. But are you going to put on evidence that the drug
4 test was somehow incorrect?

5 MR. RICH: Your Honor, the only evidence that we could
6 offer is her statement saying that she did not use.

7 THE COURT: But she's not -- is she going to exercise
8 her right not to testify?

9 MR. RICH: Just a moment.

10 THE COURT: Of course.

11 (Short Pause)

12 MR. RICH: Your Honor, there's still somewhat of a
13 conflict of positions. Ms. Beard has informed me that she
14 denies drug use and is -- she believes herself to be competent.
15 I asked her whether she wanted to make a statement, a sworn
16 statement, about either of those. I told her that I would
17 advise against that and she was unable to come to a decision on
18 either of those and it seems to me out of just pressure of the
19 moment. During these discussions, she has seemed to be
20 competent. She's understood what I have told her and what the
21 effects will be here today, the effects of a mistrial versus
22 going forward with a trial. But at this point, she's not
23 willing to make a statement.

24 THE COURT: Okay. Yes, ma'am.

25 MS. CASE: Your Honor, before the court makes its

1 decision, will Ms. Beard be given a colloquy so that we can
2 maybe assess what her mental state is?

3 THE COURT: So my concern -- and I'll let both sides
4 address it -- is that according to the probation officer,
5 methamphetamine stays in your system for about 72 hours such
6 that it could be detected, give or take. This is the second
7 day of trial. And I don't know what state she was in yesterday
8 when we were selecting the jury. Counsel indicates that they
9 were communicating and that she was participating. But if she
10 was under the influence of methamphetamine, I don't know that
11 her participation was the same as it would have been had she
12 not taken methamphetamine. And with that, I'll let you give me
13 your thoughts.

14 MS. CASE: Well --

15 THE COURT: In other words, she's probably not in the
16 same condition she was right now as when she started.

17 MS. CASE: One concern is that she's is in the same
18 condition and that she's continued to take methamphetamines
19 throughout the trial such that she's maintained whatever the
20 current mental state is, and Mr. Rich would be a good judge of
21 that. But to assess -- to validate Mr. Rich's belief about
22 Ms. Beard's current mental state, a colloquy would be of
23 assistance at least to the government.

24 THE COURT: Well, he's just indicated she's not
25 willing to give a statement about her drug use, and I don't

1 know how much -- that's certainly something I would go into. I
2 just -- I just think there's a taint here that I can't fix so I
3 am going to declare a mistrial. I was supposed to start a
4 week-long trial next Monday, so my calendar is clean. How do
5 your calendars look?

6 MS. CASE: Your Honor, speaking for the government,
7 I've had a death in my family overnight.

8 THE COURT: I just -- I'm sorry. Go ahead.

9 MS. CASE: I expect to be out of town Monday and
10 perhaps Tuesday.

11 THE COURT: I'm sorry. So next Wednesday?

12 MS. CASE: We had looked at our calendars, and the
13 27th is the best day that works for -- the best day in the
14 immediate future that works for the government but --

15 THE COURT: Mr. Rich, how do you look on the 20th?

16 MR. RICH: The 20th, Your Honor? We have -- I have
17 court in multiple locations that day, Your Honor. I have a
18 preliminary hearing that morning, and I've got a trial that
19 afternoon.

20 THE COURT: What about the 21st?

21 MR. RICH: 21st I have court in three different courts
22 that day.

23 THE COURT: Cherie, let's go off the record for this.

24 (Off Record)

25 THE COURT: The case will be reset for the 28th. Let

1 me -- I want to excuse the jury because they are sitting back
2 there. If there's no objection -- we obviously have some more
3 business to take care of, but if there's no objection I may go
4 back and thank the jury for their service and excuse them. Any
5 objection to that?

6 MS. CASE: No, Your Honor.

7 MR. RICH: No, Your Honor.

8 THE COURT: All right. In the interim, we'll take a
9 recess here. It's 2:00. The -- obvious next issue has to do
10 with the defendant's bond, and there are a couple of issues on
11 the table there. One has to do with the fact that she was late
12 yesterday, she was late yesterday afternoon, she was late this
13 morning, on top of what appears to be a violation of her terms
14 of supervised release -- terms of her bond.

15 So procedurally I think the statute says she's
16 supposed to go back before the judge that entered the initial
17 bond, but there may be a -- there may be a way around there,
18 but it's 18 USC Section 3148, I think. 3148. Let's take a
19 20-minute recess and I'll let everybody take a look at those
20 issues as I excuse the jury. We're in recess.

21 (Recess)

22 THE COURT: I want to put one more thing on the record
23 here. Obviously the drug test that I have indicating, drug
24 use, it is a primary basis for declaring a mistrial. But I
25 also for the record feel compelled to say that the defendant's

1 behavior in the courtroom was in my opinion abnormal. I don't
2 normally see defendants reacting throughout the trial the way
3 that this defendant did. She might just be highly emotional,
4 but it was part of the reason why I was concerned enough to
5 order a drug test, that and her being late and leaving the
6 building when I told her not to. So it wasn't just the test
7 itself. I just saw too much going on and felt like I needed to
8 see whether or not she was on drugs because I was concerned
9 that if she was, that it would be basically an invalid trial so
10 that's why I made that decision. All right. We're in recess.

11 (Recess)

12 THE COURT: All right. I want to do a little
13 housekeeping again with respect to the drugs that the defendant
14 appears to have taken. Apparently she admitted to taking
15 another medication, something other than the methamphetamine.
16 Officer Sullivan, you have some information on the -- I guess
17 the side effects of the medication that she admitted taking to
18 you?

19 PROBATION OFFICER: Yes, sir. Among others are --
20 possible side effects are aggressiveness, irritability,
21 hyperactivity, restlessness, and a long list of others.

22 THE COURT: Okay. That's certainly consistent with my
23 observations. So the next question here, is there a motion
24 from the government with respect to bond.

25 MS. MIDDLETON: Yes, Your Honor. The government is

1 requesting that the defendant's bond be revoked. However, it
2 is our understanding that under 3148(c) the court could -- if
3 the court found the defendant in contempt, the court could
4 proceed sue sponte. However, if we are proceeding on the
5 revocation, it would have to be before a magistrate judge and
6 in this instance Judge Ball, I believe.

7 THE COURT: Yeah. I wondered about that myself. The
8 statute itself says to the extent practicable that the
9 defendant would be taken in front of the original judge. And
10 in this case, Judge Ball has no knowledge of all the different
11 things that I've observed in the last 48 hours. I don't even
12 know if he's available. First of all, let me hear from the
13 government.

14 MS. MIDDLETON: The government has no objection to the
15 court proceeding under -- and we do understand that the
16 observations that were made were made by this court, and that
17 information would have to be otherwise conveyed to the
18 magistrate judge and his unavailability would make it
19 practicable for it to be here in the district court.

20 THE COURT: All right. Mr. Rich?

21 MR. RICH: Your Honor, I'd like to check to make sure
22 if Judge Ball's available, if that's what the statute calls
23 for.

24 THE COURT: I don't know if he is or not, but I think
25 that Judge Ball -- I would have to testify, I think, to tell

1 him all the things I've seen, which doesn't seem practicable to
2 me. I suppose I have two options. One, I could proceed as a
3 bond revocation issue or I could treat this as a matter of
4 criminal contempt or summary contempt, more likely, and proceed
5 that route. Seems to me the cleaner route is to take it as a
6 bond issue. You want a minute -- as much time as you need.
7 We're not in a rush. The jury's been excused.

8 MR. RICH: I think our arguments would be the same
9 regardless of how I proceed, Your Honor.

10 THE COURT: All right. Just for the record, is
11 there -- I would propose to handle this as a bond revocation
12 issue that I would handle. Is there an objection to that?

13 MR. RICH: No, Your Honor, no objection to that.

14 THE COURT: All right. Ms. Middleton, are you
15 handling this?

16 MS. MIDDLETON: Yes, Your Honor.

17 THE COURT: All right. You may proceed.

18 MS. MIDDLETON: Court's indulgence for just one
19 moment.

20 (Short Pause)

21 MR. RICH: Your Honor, if I may briefly, Ms. Beard has
22 informed me that she has no objection to her bond being revoked
23 because of the positive screen, but she does have a pet and
24 animal inside her residence and needs to make some arrangements
25 for it if her bond is revoked.

1 THE COURT: Okay.

2 MR. RICH: The other issue, Your Honor, for me would
3 be since we're not set for a trial to begin until the
4 28th would be clothing for Ms. Beard for that trial, where that
5 clothing would come from, if it came from her house, the
6 process of getting it from her house and in custody, to bring
7 to the U.S. Marshals, how that would work.

8 So if her bond is revoked, I don't know if it's
9 appropriate for somebody from the marshals to escort her to her
10 residence to get clothing or -- I don't know what the steps
11 need to be, Your Honor. But she does not oppose her bond being
12 revoked and going into custody because of that screen as long
13 as she has an opportunity to take care of an animal at her home
14 and --

15 THE COURT: Right. The -- it appears there have been
16 two individuals accompanying the defendant today and yesterday.
17 One is I think the boyfriend, I assume, from what I saw in the
18 courtroom. I was working at my window desk this morning when
19 the defendant drove up, and she appeared to be with the
20 boyfriend. She was certainly with him during lunch. There
21 was -- which was videotaped by the court security officers at
22 the command center downstairs.

23 There's also another gentleman that I don't know who's
24 I think, been with her today. And certainly she could make
25 arrangements, you know, to have one of them take care of the

1 dog. And, yes, you're right, she will need, by the time we go
2 to trial, to have some clothes available.

3 For what it worth, she showed up this morning in
4 that -- in what looked to me to be the Yukon in all those
5 photographs with the windows smashed out. I think she was in
6 Mr. Beard's vehicle when she showed up. Maybe not, but you
7 were definitely in a big SUV that looked like the one in the
8 picture with all the windows smashed out.

9 The motion having been made -- I guess the motion
10 having been conceded and based on that plus the fact that it's
11 clearly in order for a wide variety of reasons, not the least
12 of which is the positive drug test, I'm granting the
13 government's motion and revoking the bond. I will give her
14 some time here to get on the phone to make arrangements for the
15 pet and to have somebody pick up some clothing. I don't know
16 what you want to do with it, Mr. Rich. You can keep it at your
17 office or wherever, but that will need to be arranged before
18 she leaves.

19 MR. RICH: Yes, Your Honor.

20 THE COURT: Anything else from the government?

21 MS. MIDDLETON: Your Honor, the government would ask
22 that there be an order entered that this defendant be separated
23 from Mr. Beard at all times while at Madison County as well as
24 she be directed not to interact with any potential witness in
25 this matter until the trial and thereafter.

1 THE COURT: Right. Certainly there's already an order
2 entered that I'll just reiterate. And, Ms. Beard, I'm sure you
3 understand that you're not allowed to have any contact in
4 person, over the phone, through text message, through letters.
5 You're shaking your head. Do you not understand what I'm
6 saying?

7 MS. BEARD: I do understand. I don't want to have any
8 contact with him, Your Honor.

9 THE COURT: Not just him, but any other potential
10 witnesses in this case. You're not allowed to have any contact
11 in any format whatsoever. I will also instruct the marshals to
12 make sure that the defendant is not in the presence of -- are
13 there any other -- I know Mr. Beard's up there. Are there any
14 other detainees that are related to this case?

15 MS. MIDDLETON: To our knowledge, there are no other
16 detainees at this time.

17 THE COURT: Okay. So I enter an order to make sure
18 that she is kept apart from Mr. Beard. I will at some point
19 want to talk to the attorneys. There was obviously testimony
20 given in this case, and we'll need to give a little attention
21 to how we treat that testimony if it's used in the second case.
22 I don't want to indicate to the next jury that there was a
23 mistrial. That might be prejudicial to the defendant. All
24 right. Anything else before we are adjourned?

25 MS. MIDDLETON: Nothing further.

1 MR. RICH: Your Honor, do we need an order so we can
2 pick these clothes up from the Madison County Detention Center
3 that she's wearing today?

4 THE COURT: Do you need an order? I don't know if you
5 need one or not, but if you do, I'm happy to sign it.

6 MR. RICH: If I could prepare an order and send it to
7 your clerk or administrator --

8 THE COURT: That's fine.

9 MR. RICH: Thank you, Your Honor.

10 THE COURT: I assume there's no objection.

11 MS. MIDDLETON: None, Your Honor.

12 THE COURT: Okay. Anything else, Mr. Rich? I may
13 have something from the marshal.

14 DEPUTY MARSHAL: Yes, sir, Your Honor. If those
15 clothes are released to her attorney in the event she does get
16 a bond or something else along later, some more clothing would
17 have to be provided to the jail for her to be released in.
18 Normally Madison County will take the clothes that they come in
19 and put them in their property for that event.

20 THE COURT: I don't anticipate her being released
21 before trial.

22 DEPUTY MARSHAL: Okay. Thank you.

23 THE COURT: So and -- but it's a good point. If we
24 get to the point posttrial and she's acquitted, then Mr. Rich
25 you'll need to make sure that those clothes are pretty quickly

1 delivered.

2 MR. RICH: I will.

3 THE COURT: All right. Anything else? We're
4 adjourned.

5 (Recess)

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1 CERTIFICATE OF REPORTER
2

3 I, CHERIE GALLASPY BOND, Official Court Reporter, United
4 States District Court, Southern District of Mississippi, do
5 hereby certify that the above and foregoing pages contain a
6 full, true and correct transcript of the proceedings had in the
7 aforenamed case at the time and place indicated, which
8 proceedings were recorded by me to the best of my skill and
9 ability.

10 I certify that the transcript fees and format comply
11 with those prescribed by the Court and Judicial Conference of
12 the United States.

13
14 This the 18th day of June, 2018.
15

16 s/ *Cherie G. Bond*
17 Cherie G. Bond
18 Court Reporter
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EXHIBIT NO. Pls evid.
CAUSE NO. 3:11-cr-14072-D-B
WITNESS _____
CLERK: SHONE POWELL

SEP 25 2018

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
Gina Morris, REPORTER